



THE WHITE HOUSE
TRANSITION PROJECT
1997–2017

RICE UNIVERSITY'S
BAKER INSTITUTE
FOR PUBLIC POLICY

SMOOTHING THE PEACEFUL TRANSFER OF DEMOCRATIC POWER

Report 2017–27

THE OFFICE OF
PRESIDENTIAL PERSONNEL

James Pfiffner, *George Mason University*
White House Transition Project

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WHO WE ARE & WHAT WE DO

The White House Transition Project. Established in 1999 to provide information to incoming White House staff members so that they can hit the ground running, The White House Transition Project includes a group of presidency scholars from across the country who participate in writing essays about past transitions and the inner workings of key White House offices. Since its creation, it has participated in the 2001, 2009 and now the 2017 presidential transitions with the primary goal of streamlining the process and enhancing the understanding of White House operations. WHTP maintains an important, international dimension by consulting with foreign governments and organizations interested in improving governmental transitions.

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EXECUTIVE SUMMARY

The role of the Office of Presidential Personnel (OPP) is to help the president recruit and nominate highly qualified people to lead the executive branch. The primary responsibility is for about 1400 nominees that must be confirmed by the Senate (PAS); within that, the primary focus is on about 400 positions at the highest levels of the executive branch. OPP may also play a role in recruiting and placing lower level appointees.

* For help and advice on this essay, the author would like to thank David Lewis, Anne Joseph O’Connell, Martha Kumar, and Terry Sullivan. I also wish to thank the Moody Foundation and the Pew Charitable Trusts for their support of the White House Transition Project.

All interviews cited in the footnotes, unless otherwise noted, come from the White House Transition Project (WHTP) directed by Martha Kumar. Transcripts of the interviews are available at the National Archives website in the Presidential Libraries and Museums section. See <http://www.archives.gov/presidential-libraries/research/transition-interviews/about-whtp.html>.

BEGIN EARLY

The organizational capacity for recruiting presidential appointees must be in place immediately after the election. This implies that planning must begin before the nominating conventions and be up to speed in the early fall of election years. The transition personnel operation should be highly confidential and separate from the campaign. Personnel planning for the transition should be the responsibility of one person who has agreed to head OPP during at least the first six months of the new administration. This person should have the title of Assistant to the President, and the OPP should be the funnel through which all PAS nominations must pass in order to buffer the president from eager office seekers.

EXPECT TO BE SWAMPED WITH APPLICATIONS

OPP will be bombarded with applications from all sides – the campaign, Congress, the political party, self initiated job seekers, and even from the president elect’s family. OPP can expect 40,000 applications within the first few weeks after election; the Obama administration received more than 300,000 applications for jobs. Many supporters of the president will be highly qualified, but being an effective campaigner is different from managing large government programs and agencies. Use honorary and part time positions for deserving supporters who are not qualified for high level positions. The long term success of the president’s administration will depend heavily upon the managerial and policy competence of the people appointed to run the government.

CLARIFY THE ROLES OF OPP AND CABINET SECRETARIES

Newly appointed cabinet secretaries will naturally want to put together their own management teams. The White House staff tends to suspect that cabinet secretaries are likely to recruit people who are loyal to the cabinet secretary but not necessarily to the president. OPP should make it clear that the president reserves the right to name any political appointee in the departments and agencies, but this authority should be used sparingly, and with a light hand. OPP should be the funnel through which all presidential nominees must pass; otherwise the president will be swamped with office seekers.

VET ALL POTENTIAL NOMINEES CAREFULLY

Recent administrations have faced difficulties in making presidential appointments because of unforeseen problems, such as unpaid taxes or hiring undocumented workers. If instances of such problems are uncovered after the president makes a nomination, it will be embarrassing, and the nomination may have to be withdrawn. Thus careful and thorough vetting is necessary before any presidential nomination.

PROVIDE SUFFICIENT RESOURCES FOR OPP

A new presidency needs top level executives in place quickly, especially since 9/11. The slow pace of appointments has frustrated recent administrations. On May first in the Clinton, Bush, and Obama administrations, only about half of the most important positions in national security were filled. At the 100 day mark, President Reagan had filled 27 percent of PAS positions, but President Obama had filled only 17 percent of his. At the one year mark, Reagan had 86 percent of his PAS appointees on board, though President Obama had appointed only 64 percent of his. Investing personnel and budgetary resources in OPP will pay off in the quality and timeliness of presidential appointments

PREPARE NOMINEES FOR CONFIRMATION

Senate confirmation hearings can be daunting, and nominees need the support of the administration (and sometimes their own lawyers). “Murder boards” and practice can be valuable for nominees. Nominees should talk with previous holders of the offices to which they are nominated. OPP should provide aid and advice to nominees and keep in touch so that they do not feel abandoned as they wade through the myriad forms and wait through the lengthy appointments process. New nominees should seek the advice of previous incumbents of the positions for which they are nominated.

Following these rules will not guarantee a smooth recruitment process, but neglecting them will likely lead to serious problems.

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The Office of Presidential Personnel (OPP) exists to help the president choose candidates for about 1,200 executive branch positions that require confirmation by the Senate (PAS positions). These people are officers of the U.S. government. The OPP can also determine about 2,000 lower-level political appointments.¹

This analysis presents background on the creation of the OPP and its recent development. In order to carry out the functions of the office, each serious presidential nominee must begin organizing a transition personnel operation well before Election Day. Understanding the operation of the OPP therefore must begin with those preparations, because the OPP must be able to function immediately after the inauguration and continue throughout the president's term. After examining the

¹ This paper is drawn in part from Bradley Patterson and James P. Pfiffner, "The White House Office of Presidential Personnel," *Presidential Studies Quarterly* 31, No. 3 (September 2001): 415-438, which was updated in 2008 with David Lewis; Pfiffner, "Presidential Appointments: Recruiting Executive Branch Leaders" in *Innocent Until Nominated: the Breakdown of the Presidential Appointments Process*, edited by G. Calvin Mackenzie (Washington: Brookings Institution, 2001), pp. 50-80; and Pfiffner, *The Strategic Presidency: Hitting the Ground Running* 2nd edition (Lawrence: University Press of Kansas, 1996).

organization and functions of a successful OPP, this analysis will turn to the major challenges facing each new president in using the OPP in recruiting presidential appointees.

I. DEVELOPMENT OF THE OFFICE OF PRESIDENTIAL PERSONNEL

Presidents have appointed officers of the executive branch of government ever since the administration of George Washington. Throughout most of the nineteenth century, the “spoils system” dominated the executive branch, with much of the federal workforce changing upon the election of a president from the opposing political party. After the Pendleton Act of 1883 created the merit system, the executive branch was gradually changed so that civil servants were hired under standards established by the Civil Service Commission, and only top-level government officials were politically appointed.

For most of the century after the Pendleton Act, the White House had no institutional capacity to recruit political appointees. The Cabinet and top-level appointees were, of course, determined by the president, but the political appointments of lower-level officials were often influenced heavily by patronage demands originating in the political parties and Congress. As the scope of government expanded and the technical complexity of the functions of the government increased in the 20th century, the qualifications for even political appointees began to change to include technical and policy expertise as well as political loyalty to the president.

After World War II, the White House gradually developed a capacity to control appointments for the president. Harry Truman was the first president to assign the duty of presidential appointments to one person. President Dwight Eisenhower also had a special assistant for patronage and created political Schedule C positions. President John Kennedy designated three people to conduct his “talent hunt” for the “best and brightest” to serve in his administration. Kennedy did not expect political appointments to be much of a challenge, but his perspective changed after he assumed office. “I thought I knew everybody and it turned out that I only knew a few politicians,” he said.²

At the beginning of his administration, President Richard Nixon delegated the selection of sub-Cabinet appointments to his Cabinet secretaries. By his second year in office, he decided that this was a mistake and brought in Fred Malek, who established an executive search capacity in the White House Personnel Office (WHPO), with about 30 people working for him.³ The WHPO handled all presidential appointments, but not lower-level political appointments. The emphasis was on the quality of the nominee. Jerry Jones, who worked with Malek in the operation, recalled that Nixon said:

“I want excellent people. We are not going to put dumb-os in these jobs. I don’t care what they did for us in the campaign.” So I had the mandate to have somebody come up

² Quoted in Calvin Mackenzie, *The Politics of Presidential Appointments* (N.Y: The Free Press, 1981), p. 83.

³ WHTP, Fred Malek interview, p. 3 of transcript.

to me and say, "I gave \$1 million, and I want my son-in-law in some place or other." And I could say "I'm sorry, sir, your son-in-law can't have that job." And I could count on prevailing. The only guys that could beat me were senators who were chairmen of committees, and I didn't even fight them.⁴

Jimmy Carter was the first president to begin planning for personnel recruitment before the election, but conflict between the campaign operation (headed by Hamilton Jordan) and the transition preparation (headed by Jack Watson) resulted in an uncoordinated personnel recruitment process during the transition. In addition, Carter initially decided to delegate to his Cabinet secretaries broad authority to recruit their own departmental teams, as Nixon had initially tried. According to Arnie Miller, who was brought in to assert more White House control of presidential appointments, "they had given away the store and they wanted me to take it back."⁵

Pendleton James was put in charge of the incoming Reagan administration's personnel recruitment operation and he undertook systematic preparations as early as the summer of 1980. James emphasized the need for an early start: "Presidential personnel cannot wait for the election because presidential personnel has to be functional on the first day, the first minute of the first hour ... Presidential personnel has to be behind-the-scenes, not part of the campaign and certainly not known to the public."⁶

The Reagan administration concluded that Nixon and Carter had delegated too much recruitment authority to their Cabinet secretaries and had abdicated White House control. They thus mandated, immediately after the election, that the Office of Presidential Personnel would control all presidential appointments. But in addition, they decided to establish White House control over non-career Senior Executive Service (SES) and Schedule C appointments, even though these appointments are technically made by Cabinet secretaries and agency heads. Pendleton James was also given the title of Assistant to the President (the highest designation for a White House staffer) and an office in the prestigious West Wing. Immediately after the election, James had more than 100 people working with him, including volunteers.

President George H.W. Bush (41) continued to control in the White House the process for deciding on political appointments. He chose Chase Untermeyer to head his OPP. The main criterion for a Bush administration appointment was personal loyalty to George Bush, and two special groups were set up to assure that demonstrated loyalty was rewarded. The president's nephew, Scott Bush, was put in charge of drawing up lists of Bush campaign workers whose names would be sent to departments to be appointed to Schedule C positions. The president's son and future president, George W. Bush, was put in charge of a group called the "Silent Committee," which drew up lists of those who had been loyal to George Bush over his career to make sure that they were "taken care of" in the appointments process.⁷ Chase Untermeyer recalled:

⁴ WHTP, Jerry Jones interview, p. 26 of transcript.

⁵ WHTP, Arnie Miller interview, p. 13 of transcript.

⁶ WHTP, Pendleton James interview, p. 22 of transcript.

⁷ WHTP, Chase Untermeyer interview, p. 10 of transcript.

... the list of the deserving was determined and we were able to figure out ... the allocations per Cabinet department. I briefed the Cabinet in a memorable moment, telling them the number of Schedule C positions they had and that we would send over names of people to fill those positions ... the whole purpose of this was to reward the people who had worked in the Bush campaign.⁸

President Clinton continued White House control of the presidential appointments process, but his personnel recruitment system got off to a slow start when its initial director, Richard Riley, after only a few weeks on the job, was named by Clinton to be Secretary of Education. OPP was then headed by Bruce Lindsey, but he was responsible for many other duties and could not devote the time necessary to handle this task. Veronica Biggens then took over until the middle of the administration. The office was finally headed by Robert Nash, who continued in the position throughout the administration. The hallmark of the Clinton personnel recruitment effort was “diversity,” and the Clinton White House was successful in appointing greater numbers of women and ethnic minorities than had been recruited by previous administrations. In addition to the lack of continuity, the personnel operation was delayed by President-elect Clinton’s decision to designate his Cabinet before organizing the White House staff.

President George W. Bush (43) asked Clay Johnson to begin planning for the transition in the late fall of 1999.⁹ An important part of the transition planning was personnel, and in the next year-and-a-half Johnson worked on the mechanics of a transition. Before the election, the personnel operation had begun to put together a list of names and job requirements for each slot in consultation with others, particularly Dick Cheney. Johnson said the lists for each position comprised 10 to 20 names. Subsequent appointments were collaborative efforts between the OPP and the departments, with each side having a veto. It was very clear, however, that Cabinet secretaries knew that appointments were the president’s and not the secretary’s. Johnson explained that appointees “need to know that the president selected them,” otherwise when things get tough their loyalties will be to the secretary and not the president.¹⁰ Each incoming secretary got a one-page document that explained how the process worked.

The Obama personnel team’s job was made easier by the concerted effort of the outgoing Bush administration to facilitate the transition in general, and in the personnel operation specifically. They did this by arranging pre-security clearances for those who would need them immediately after the election as well as coordinating personnel software systems. The Bush administration also provided a list of 150 position and job descriptions that should be given priority, especially in national security and economic management.¹¹

⁸ Ibid., p. 26.

⁹ WHTP, Martha Kumar interview with Clay Johnson, Washington, D.C., September 4, 2006, p. 1 of transcript of 2001.

¹⁰ WHTP, Martha Kumar interview with Clay Johnson, Washington, D.C., October 25, 2006.

¹¹ Martha Kumar, *Before the Oath* (Baltimore: Johns Hopkins University Press, 2015), pp. 221-222.

Nevertheless, Obama's personnel team was hindered by the flood of applicants (more than 300,000), the increased number of PAS appointments, and the lack of continuity in its personnel leadership.¹² Early organization, in June 2008, was done by Michael Froman, Frederico Pena, and Don Gips. Froman took the lead in assembling lists of potential nominees, but left shortly after the election, and Gips took over the personnel operation. Initially, Jim Messina directed personnel operations, but 10 days into the transition, he was appointed deputy chief of staff.¹³ His deputy, Patrick Gaspard, took over, but then was appointed White House political director. Gips was then appointed personnel director on January 5, 2009, but in June was appointed Ambassador to South Africa; Gips' deputy, David Jacobson, also left shortly after that. OPP requires continuity of leadership because the chief recruiter needs to have direct access to the president-elect, clear rules and processes have to be established early, and institutional memory is crucial to effective recruitment.

The transition operation of GOP nominee Mitt Romney began in summer 2008 and eventually included 495 people (85 percent volunteers), 24 of whom worked on personnel recruitment.¹⁴ The personnel project had worked out detailed procedures for vetting potential nominees. This was the most elaborate personnel recruiting operation that was in position before the election. It would have been ready to go immediately after the election, had Romney won.

The presidential personnel recruitment function was transformed in the second half of the twentieth century. It developed the following characteristics:

- The political parties, which had dominated presidential appointments for the previous century, were gradually replaced by an increasingly professional executive recruitment capacity, which is now the Office of Presidential Personnel.
- This capacity, which began with one person in charge in the Truman administration, was gradually institutionalized as a potent and permanent fixture in the White House Office, headed by an aide with the rank of Assistant to the President.
- The reach of the Office was extended not only to presidential appointments (PA and PAS) but also to what are technically agency head appointments (non-career SES and Schedule C positions).
- The size of the office grew from six people in the Kennedy administration to more than 100 staffers (including volunteers) at the beginning of the Reagan administration. After the initial staffing of the administrations, the size of OPP settled to 30-40.

II. TYPES OF APPOINTMENTS AND NUMBER OF POSITIONS

The most important presidential appointments are those designated in Article II of the Constitution as "Officers of the United States." Each of these positions is created in law and requires confirmation of the nominee by a majority of the Senate, according to

¹² "Presidential Transitions In a Bipartisan Setting," transcript of the panel discussion at the George W. Bush Presidential Center, Dallas, Texas (July 11, 2016), p. 53.

¹³ *Ibid.*, p. 236.

¹⁴ Michael O. Leavitt, et al., *Romney Readiness Project*, ISBN: 9780615799865 (2013), p. 93. The book provides a description of the elaborate transition personnel project that prepared for the possible presidency of GOP nominee Mitt Romney. See also Romney Readiness Project R2P, Inc., available at <http://www.p2012.org/chrntran/r2pinc.html>.

the constitutional provision that the president makes appointments “with the Advice and Consent of the Senate.” In addition, the OPP plays an important role in making non-career (i.e., political) Senior Executive Service and Schedule C appointments, though technically these are department head appointments. All political appointees, except for those with terms fixed by law, serve at the pleasure of the president. That is, they may be fired at any time for any reason.

Political Appointments Available to the President¹⁵

Presidential Appointments with consent of the Senate (PAS)	1,217
Presidential Appointments not requiring Senate confirmation (PA)	364
Non-Career Senior Executive Service (NC-SES)	680
Schedule C appointments	1,392

Every presidential election year, after the election, Congress publishes *Policy and Supporting Positions*, which lists each executive branch position available for presidential appointment. It is known as the “Plum Book”—not because appointed positions are often called “political plums,” but because the color of its cover has traditionally been a deep purple. It lists each position by location, position title, name of incumbent, salary, and type of appointment.

Presidential Appointments Requiring Senate Consent

Presidential Appointments with consent of the Senate (PAS) are the highest executive branch positions, including Cabinet secretaries (Executive Level I), as well as deputy secretaries, under secretaries, and assistant secretaries (Levels II to V). These executives are “line officers” of the government and can make authoritative decisions about policy and use of resources. These PAS positions include 188 U.S. ambassadors (Department of State) and 187 U.S. attorneys and marshalls (Department of Justice) as well as members of some boards and commissions. Although all ambassadors are PAS, usually 25 to 30 percent are filled by political allies of the president; the rest are filled by career foreign service officers. The main focus of the OPP is on about 600 policymaking positions, rather than ambassadors or U.S. attorneys and marshalls. Total PAS positions as of 2012 were 1,217.

Presidential Appointments without Senate Consent

Presidential appointments not requiring consent of the Senate (PA) have a significant level of responsibility but are not formal officers of the United States. Many

¹⁵ The source for the figures is *United States Policy and Supporting Positions* (“Plum Book”), Committee on Oversight and Government Reform, U.S. House of Representatives, 112th Congress, 2nd Session (December 1, 2012), p. 200. In addition, each president nominates and appoints several hundred federal judges, with the advice and consent of the Senate. In 2012, Congress passed and Obama signed the Presidential Appointment Efficiency and Streamlining Act of 2011 (P.L. 112-166), which reduced the number of PAS appointments by 163 positions.

of these positions are in the Executive Office of the President, particularly the White House Office, but also some are members of boards and commissions. Total PA positions as of 2012 was 364.

The OPP does not control the appointment of White House staffers, who are most often designated by the chief of staff. White House staff, who all serve at the pleasure of the president, numbered 474 in 2015.¹⁶

Senior Executive Service

Senior Executive Service (SES) positions were created by the Civil Service Reform Act of 1978. These are the executives, career and political, at top levels of the executive branch (above GS-15) immediately below the executive schedule.¹⁷ These approximately 8,000 SES positions (Plum Book, p. 201) were created to give new administrations the flexibility to shift top-level personnel within departments and agencies without having to abolish positions or demote or fire career executives. Up to 10 percent of SES appointments can be politically appointed to “general” positions by each administration; about half of the SES positions are designated as “career reserved” because of their sensitive personnel or financial responsibilities and the need for impartiality. Non-career SES positions are created by the Office of Personnel Management and appointments are made by the agency head (subject to possible control by the OPP). Some “limited term” SES appointments are also available to an administration. In 2012, there were 680 non-career SES positions.

Schedule C

Schedule C positions (as distinguished from Schedule A and B positions that are temporary or require qualifications that are not easily testable) are available to presidential administrations at the GS-15 level (mid-level management) and below. These positions were created during the Eisenhower administration because it wanted to appoint Republican loyalists at lower levels in executive branch bureaucracies after 20 years of Democratic presidencies. Schedule C positions must be policy-oriented or confidential in nature (e.g., executive secretaries or speech writers) and are controlled by the Office of Personnel Management. At the beginning of a presidential term, temporary Schedule C positions may be created and filled for 120 days. All Schedule C positions serve at the pleasure of the appointing authority. In 2012 there were 1,392 such positions.

III. FUNCTIONS AND RESPONSIBILITIES

The primary duty of the transition personnel team (and future OPP) is to help the president-elect (and later president) select people to nominate for executive branch

¹⁶ The 2015 White House staff is listed at <https://www.whitehouse.gov/briefing-room/disclosures/annual-records/2015>.

¹⁷ The General Schedule was created by the Classification Act of 1949 and ranges from GS-1 (lowest level) to GS-15 (mid-level management).

appointments. Most importantly, these will include Cabinet and sub-Cabinet appointments, and later possibly non-career SES and Schedule C appointments.

Organizing the Office of Presidential Personnel must begin well before the inauguration, before the election, and ideally before the formal nomination of the presidential candidates by party conventions. The transition personnel should plan to continue their functions immediately after election, then after inauguration, when the Office of Presidential Personnel will be formally staffed.

Presidential nominees should select a person experienced in executive recruiting to head up the transition personnel team. That person should promise to lead the OPP through the president's first year in office. A lack of continuity will cause confusion and delays in nominations that a new administration can ill afford. The temptation will be for members of the transition personnel team, including the director, to look for positions for themselves and leave the OPP early; thus a commitment to serve the new president well into the first year is essential in the transition personnel operation. Don Gips pointed out the difficult paradox of keeping a full recruiting team: you need the best people in this important job, but you also want the best people in the agencies.¹⁸

The head of the transition personnel operation reports to the director of the presidential transition and recruits a team of lawyers and vetters who are willing to work long hours to help the president fill political executive branch positions. Members of the team must be committed to the new administration and be familiar with the job requirements of hundreds of positions throughout the executive branch. The OPP may also help vet the direct presidential appointments not requiring Senate confirmation, many of which are in the White House Office and are most often designated by the chief of staff rather than the OPP.

The transition personnel operation must take care to minimize conflict with the campaign and, after the election, with the designated chief of staff. The Bush (43) administration established a separate White House personnel operation for recruiting White House staff, who were designated by the chief of staff without OPP vetting. Occasionally, applicants for jobs who did not make it through the OPP and Political Affairs vetting appealed to the chief of staff, who could appoint them despite OPP reservations. This sometimes became a point of friction between the OPP and the White House personnel operation.¹⁹

The transition personnel operation should ideally begin before the formal nomination of presidential candidates, and funds for salaries and office space have to come from campaign funds, donations, or contributions in kind. Once formal nominations of presidential candidates have been made, the Presidential Transition Act of 2015 provides office space and funds for transition planning before the election as well as to the winner of the election. For the rush of work before the election and inauguration, volunteer vetters can work alongside paid personnel.²⁰

¹⁸ WHTP, David Lewis interview with Donald Gips, March 17, 2016, in Gips' office.

¹⁹ E-mail to author from Anita McBride, personnel recruiter for President George W. Bush, May 20, 2016.

²⁰ Presidential Transitions Improvement Act of 2015, Public Law 114-136, March 18, 2016.

Security must be tight, and secrecy is of the utmost importance—not to hide that the operation is underway, but to keep the identities of the potential nominees confidential. If word leaks out about the names of potential nominees, it may embarrass the candidate, provide ammunition for the opposition party, and undermine the morale of campaign workers. Michael Leavitt, who ran the Romney Readiness Project to prepare for a potential Romney presidency, noted: “If the media is writing about the transition, it is a distraction to the campaign.”²¹ Details of computer security precautions are discussed in the Romney Readiness Project.²²

After the party nominations and before the election, the transition personnel team should be gathering lists of potential nominees and vetting them for suitability for positions in the executive branch. Of course, Cabinet secretaries should be the first priority; much is at stake because of their symbolic and leadership importance. But others on the team should be working on sub-Cabinet nominees, particularly in departments and agencies that are of particular importance, should their candidate be elected. Since 9/11, every candidate must place national security appointments at the top of their priorities but other priorities, e.g., economic, should also be given precedence. Sub-Cabinet priorities should include the top staff and line officials in each Cabinet department who deal with legal issues, congressional liaison, budgets, and public communications, so that each Cabinet secretary will have his or her team ready to go shortly after taking office.²³

Because of the vulnerability of the country during a presidential transition, the Intelligence Reform and Terrorism Prevention Act of 2004 (which created the Office of the Director of National Intelligence) provided that transition teams can submit clearance forms (SF-86 for security clearance) to the FBI before the election, so that immediately after the election they can have access to national security briefings in order to advise the president-elect. This requires that the necessary forms be completed well before the election.²⁴ Clay Johnson advised that in 2009, national and homeland security positions should be among the first filled by a new administration.²⁵

1. Organizing the Office Itself

The allocation of specific duties within the OPP has tended to become standardized in recent administrations; the OPP organizational structure has reflected the following breakdown:

1. The director (who has the title of Assistant to the President) often has two deputy directors (Deputy Assistants to the President) and a chief of staff.

²¹ Tom Fox interview with Michael O. Leavitt, “Talking presidential transitions and agency leadership,” *Washington Post*, May 30, 2013.

²² *Romney Readiness Project*, p. 96.

²³ Johnson interview, September 4, 2001, p. 11.

²⁴ *Before the Oath*, pp. 219-221.

²⁵ Clay Johnson, “Recommendations for an Effective 2008 Transition,” *Public Administration Review* (July-August 2008), p. 625.

2. There are typically three or four associate directors (with the title of Special Assistant to the President), each of whom handles a related cluster of departments and full-time regulatory bodies, e.g., national security, economic policy, domestic policy, etc.
The Obama transition had clusters for environmental, economic, judicial, domestic, vetting, priority, ambassadors, boards and commissions, and Schedule C placements.²⁶
3. An associate director specializing in part-time boards and commissions.
4. An officer specializing in clearing Schedule C appointments.
5. There may be a congressional liaison officer and a political clearance officer.
6. An information systems officer.

During the transition and in the months immediately following the transition, the OPP may number 100 people or more, with some being volunteers. Later on, the staff tends to total between 30 and 40 people. Don Gips of the Obama administration said that he wanted “double the number of people” that were allocated to OPP, but the budget had already been determined, and he did not get them.²⁷ Clay Johnson has strongly urged that more resources be allocated to OPP. He said that there are usually seven OPP people at the special assistant to the president level, but “if they want to get 400 people in there by the August recess instead of 225 people, which is typically the number of people that are confirmed,” the number of people at that level needs to be 15.²⁸

2. *Personal Presidential Involvement with the OPP*

By the time of inauguration, the president and the OPP should have set up a process for final decisions on potential nominees. Separate procedures will have been set up to have potential nominees vetted by the Counsel’s office for conflict of interest, cleared for national security by FBI investigations, and checked for compliance with the IRS. But the substantive vetting and judgment about candidates is the job of the OPP. Some presidents have been closely involved in the process of selecting nominees, and some have largely delegated that task to the director of the OPP and the chief of staff.

President Lyndon B. Johnson was closely involved with the selection process and took personal interest in individual selections. John Macy, his executive recruiter, said that Johnson “was deeply involved in a large number of appointments. He had a fantastic memory, and he could recall some detail on a summary that we would send him, months and months afterwards.”²⁹ President Gerald Ford was also actively and personally involved in recruiting appointees for his administration. His personnel recruiter, Douglas Bennett, had three regularly scheduled meetings with Ford each week,

²⁶ Gips interview, March 17, 2016. For a hypothetical organization chart, see the Romney Readiness Project, p. 101.

²⁷ White House Transition Project, Don Gips interview by Martha Kumar, (August 29, 2016), p. 7

²⁸ “Presidential Transitions In a Bipartisan Setting,” transcript of the panel discussion at the George W. Bush Presidential Center, Dallas, Texas (July 11, 2016), pp. 54-55.

²⁹ Quoted in Richard L. Schott and Dagmar S. Hamilton, *People, Positions, and Power: the Political Appointments of Lyndon Johnson* (Chicago: University of Chicago Press, 1983), p. 5.

sometimes alone and sometimes with the chief of staff.³⁰ When he was head of recruitment, William Walker met with Ford for an hour every Tuesday and Friday afternoon.³¹

Presidents Nixon, Carter, and Bush 41 preferred to work from paper memoranda and most often approved the recommendations of their OPP directors in conjunction with the chief of staff. Fred Malek developed a professional personnel recruitment operation, but saw Nixon personally only about once a month. He and Chief of Staff H.R. Haldeman would come to an agreement, and most often had their recommendations confirmed by the president.³²

Carter also preferred to work from paper. That is, he would read memoranda and reports in detail and respond with written comments, rather than discussing potential appointees personally. According to Arnie Miller, “We had a similar problem with Carter really only reading memos—five or six on appointments every night.”³³ Miller sometimes wanted the president to personally ask a prospective nominee to take the job, but “I couldn’t get Carter to ask.”³⁴

Chase Untermeyer observed that “presidents often hate personnel” recruitment and that once he and Chief of Staff John Sununu agreed on a nominee, Bush 41 would virtually always go along with their recommendation.

Under the arrangement we had with President Bush, almost never were there meetings in the Oval Office talking about personnel ... It was all done by paper. President Bush would see a memo recommending somebody with initials from John Sununu and me. In 99.9 percent of the cases he then signed it.³⁵

Occasionally Untermeyer would talk with the president on the phone about a nominee, but not on a regular basis.

One of the most organized personnel operations was set up by Pendleton James in the early Reagan administration. Once a name was being seriously considered for recommendation to the president, it had to go through a set of checkpoints to ensure that anyone who had serious reservations about a candidate could register them. The process included the OPP, the departmental secretary, the troika (of Edwin Meese, James A. Baker, III, and Michael Deaver), the counsel’s office, legislative liaison, Lyn Nofziger’s political shop, and the domestic or national security adviser.³⁶

Clinton’s personal involvement, along with the First Lady’s influence in political personnel selection, slowed the Clinton personnel operation considerably at the

³⁰ WHTP, Douglas Bennett interview, p. 2 of transcript.

³¹ National Academy of Public Administration, “Recruiting Presidential Appointees: A Conference of Former Presidential Personnel Assistants” (NAPA: Washington D.C., 1984), p. 11.

³² *Ibid.*, p. 12.

³³ *Ibid.*

³⁴ See p. 20 of the Heritage Foundation panel discussion, “The Keys to a Successful Presidency—Staffing a New Administration,” May 16, 2000.

³⁵ Untermeyer interview, p. 43.

³⁶ See James P. Pfiffner, *The Strategic Presidency: Hitting the Ground Running* (Lawrence, KS: University Press of Kansas, 1996), p. 61.

beginning of the administration. Cabinet members would complain about appointments languishing at the president's in-box.³⁷ Although it is clearly the prerogative of the president to be personally involved—after all these are *presidential* appointments—the process may work more smoothly if the president delegates much of the winnowing to his OPP, reserving the final choices to her or himself.

Even aside from the volume, the job of the OPP is complex, and coming to an agreement about a final nominee is difficult. As Robert Nash put it: “All the things you have to consider—geography, race, sex, senatorial, congressional, outside groups, White House offices. All these things ... That's what you've got to do. And it's tough. It's really, really, really tough.”³⁸ Clay Johnson said that once or twice a week he and his team would meet with President Bush, Vice President Cheney, and Chief of Staff Andy Card.³⁹ Obama's head of the OPP, Don Gips, likened the process to attempting to solve a Rubik's Cube by trying to “put together a meld of the right skill sets, some new blood, some old blood, geographic diversity, gender diversity, racial diversity ... And then you've got politics, senators, congressmen, governors, mayors ... who did what in the campaign.”⁴⁰ Gips said that Obama did not actively insert himself on behalf of certain candidates. He told Gips, “I've got a lot of friends, but I want you to pick the best people.”⁴¹

Given the range of relationships between the president and the chief personnel recruiter, there is no one best way to structure the process. Presidents have different personal preferences, and the processes should be set up to serve the president. The role of the director of the OPP should be that of a neutral broker, a person who does not have personal policy preferences or candidates that he or she may favor. Pendleton James argues that the OPP director should have certain attributes: “The confidence of the president, an honest broker, stays in the job, has no hidden agenda, understands the president and his philosophy, what he wants to accomplish, what his goals are.”⁴²

3. Pressures on OPP Personnel

Life for OPP staffers is hectic, especially in the early months of an administration. Interviews with former members of the OPP staff indicate that in the beginning they often work seven days a week and that after several months things may slow down to “only” five and a half or six days a week. Workdays are often 12 to 14 hours at the beginning of an administration and 10 to 12 after it is established. According to Pendleton James, the pressures on the OPP director are tremendous.

³⁷ Miller interview, p. 9.

³⁸ Nash interview, pp. 31-32.

³⁹ Johnson interview, September 4, 2001.

⁴⁰ *Before the Oath*, p. 233.

⁴¹ Gips interview, June 9, 2009, p. 18.

⁴² James interview, pp. 15-16.

There's not enough time in the day to get it done ... my job was like drinking water from a fire hydrant. There is so much volume coming at you, your mouth is only that big and the rest just sputters and spills on the floor. There just isn't enough time.⁴³

Constance Berry Newman, associate director of OPP in the Bush 41 administration recalled running into a friend in the White House.

He looked just awful. I asked what was the matter and he said, "I just had a call from my son on my cell phone. He was crying because he hasn't seen me in 10 days. He had gotten up early but I had left earlier." It was 6:30 in the morning, so I don't know what time this poor kid got up to see his father.⁴⁴

Newman also remembered the pressures of the job. "The entire time I worked in Presidential Personnel, everything you hear about having a gazillion new best friends the day you get into the job like Presidential Personnel is true." She had an average of 150 incoming telephone calls a day.⁴⁵ Jan Cope Naylor, deputy director of OPP for Bush 41, said she worked "seven to seven" on weekdays and "pretty much worked every Saturday."⁴⁶ Her first day in office she got 300 phone calls from people asking specifically for her.⁴⁷ Douglas Bennett, director of the OPP in the Ford administration, recalled receiving 200 phone calls on a typical day and sending out 400 to 500 pieces of mail a day under his signature.⁴⁸

Chase Untermeyer recalled the pressure at the beginning of the Bush 41 administration:

I couldn't estimate [the number of phone calls]. At the start of the administration it truly is ridiculously high, hundreds. And I remember in the early days of the administration looking at my call sheets. It would be quarter of eight ... and I would look at my call sheets. Here would be page after page of some of the most important people in the country, people who are used to having their calls taken immediately, let alone the same day, and here are people whose phone calls I simply could not and would not return.⁴⁹

As Pendleton James said, "presidential personnel is a minefield. Every appointment will create controversy somewhere along the line."⁵⁰ According to Constance Horner, later a director of OPP in the Bush 41 administration, the transition period is a particularly tension-filled time.

Anything that can reduce procedural chaos helps a lot because people are so paranoid and so atavistic during this period. It's like there's one lifeboat left and the city's in flames and everyone's trying to get on it or some metaphor like that. And the degree of fear of shame that people experience—they're afraid of rejection in front of their friends

⁴³ James interview, p. 38.

⁴⁴ WHTP, Bonnie Newman interview, p. 1 of transcript.

⁴⁵ *Ibid.*, p. 6.

⁴⁶ WHTP, Jan Naylor Cope interview, p. 27 of transcript.

⁴⁷ Cope interview, p. 13.

⁴⁸ Bennett interview, pp. 8, 27.

⁴⁹ Untermeyer interview, p. 40.

⁵⁰ James interview, p. 17.

and families— they are thought to be among those who might enter an administration and then time passes and they don't. People begin to ask ... people just go crazy.⁵¹

Don Gips, Obama's head of the OPP recalled, "The first couple months were, I mean, literally, 24/7; it was just around the clock. We were lucky if we left here at midnight."⁵² Pendleton James summed up the pressure this way:

Being the head of presidential personnel is like being a traffic cop on a four-lane freeway. You have these Mac trucks bearing down on you at 60 miles an hour. They might be influential congressmen, senators, state committee chairman, head of special interest groups and lobbyists, friends of the president's, all saying "I want Billy Smith to get that job." Here you are, knowing you can't give them all and you have to make sure that the president receives your best advice. So presidential personnel is buffeted daily and sometimes savagely because they want to kill that guy ... because I'm standing in the way.⁵³

IV. CHALLENGES TO OPP EFFECTIVENESS

Running the Office of Presidential Personnel is one of the most challenging duties in the White House. Ideally, the OPP will recruit the most qualified people to lead the executive branch. But the reality of American politics is that patronage appointments are important in every administration. Presidents might appoint people to reward personal loyalty or service in the campaign. In addition, there will inevitably be conflict between the OPP, which wants to appoint presidential loyalists, and newly appointed Cabinet secretaries, who want to put together their own teams of subordinates. Increasing scrutiny of nominees, along with burdensome (and sometimes expensive) paperwork can discourage qualified people from going through a lengthy and possibly embarrassing process. Finally, Senate confirmation may take months, and nominees might be sidetracked through no fault of their own. Each of these challenges will be taken up below.

1. Filling Positions with Qualified People

The criteria for selecting candidates are multiple and demand the balancing of many factors, substantive and political. The most important criterion should be: is the person qualified for the position? Effective performance in similar positions is a good indicator of qualifications. Policy expertise is crucial for many positions, but managerial experience is essential to others. Clay Johnson, OPP Director for George W. Bush, put it this way: "A significant challenge in assembling any new administration's team is balancing the need to select the best people to do the work ahead with the natural desire to reward key people who helped get the new president elected."⁵⁴

⁵¹ WHTP, Constance Horner interview, p. 27 of transcript.

⁵² Gips interview, June 9, 2009, p. 17.

⁵³ James interview, p. 7.

⁵⁴ Johnson, "An Effective 2008 Transition," p. 625.

Although all political positions are listed in the Plum Book, it provides only the bare minimum of information: title, type of position, salary, and incumbent. It is of almost no help in matching high-level candidates with particular positions, because it provides no information at all about the duties of any of the listed jobs or about the skills required. It also appears only in late fall of election years, too late for the kind of advance staff research necessary, and its appearance promptly generates tens of thousands of inquiries from eager office seekers. Workers in the OPP must have a much more complete understanding of the requirements and responsibilities of each position in order to match the right person with the appropriate job.

The Bush 43 administration began with the statutes that created the positions, information from the Executive Clerk's office, and the agencies' knowledge of the position. They then considered the functional, experiential, and interpersonal skills required for the position.⁵⁵ The outgoing Bush administration gave both the Obama and McCain transition teams a "complete inventory and description of all the appointed jobs in government."⁵⁶

Detailed information about specific positions can also be found in several "Prune Books" (prunes are advanced plums) published by the Council for Excellence in Government. The books cover several hundred under secretary and assistant secretary positions and are based on interviews with incumbents of those positions. They include four- to eight-page descriptions of the duties and responsibilities of each position.⁵⁷

In preparation for the 2016 presidential transition, the National Academy of Public Administration prepared a list of its members of both parties who had held many of the PAS positions in previous administrations. The list included contact information so that nominees for those positions could talk with those who had held the position previously.

2. Flood of Applicants and Demands for Patronage

One of the first challenges for the Office of Presidential Personnel is to deal with the volume of requests for appointments that flood into the White House immediately after the election. Resumes, e-mails, and phone-calls will inundate transition headquarters by the tens of thousands; applicants-in-person, by the hundreds. In recent administrations this flood has reached 1,500 inquiries or applications per day.⁵⁸ The Bush 41 administration had received 16,000 applications before the inauguration and by the end of May 1989, it had received more than 70,000 applications and recommendations (though 25,000 may have been duplicates).⁵⁹ Robert Nash said that the Clinton administration had 190,000 resumes in its computer files by the end of the

⁵⁵ WHTP, Martha Kumar interview with Joie Gregor, September 15, 2011, pp. 4, 19 of transcript.

⁵⁶ William A. Galston and E.J. Dionne, "A Half-Empty Government Can't Govern" (Washington: Brookings, December 14, 2010), p. 12.

⁵⁷ John H. Trattner with Patricia McGinnis, *The 2004 Prune Book: Top Management Challenges for Presidential Appointees* (Washington: Brookings, 2004).

⁵⁸ *The Strategic Presidency*, p. 57.

⁵⁹ *The Strategic Presidency*, p. 138.

second term⁶⁰ Clay Johnson estimates that the OPP can expect 40,000 applications in the first few weeks after the election and 75,000 in the first several months after entering the White House.⁶¹ The Obama personnel operation received 300,000 applications for jobs, aided by online application forms.⁶²

It is customary for the outgoing administration to ask for letters of resignation from all presidential appointees, effective on or before January 20. Bush 43 was particularly helpful to the incoming Obama administration. On December 1, 2008, Chief of Staff Joshua Bolton issued a statement for the administration: “President Bush is requesting letters of resignation from all non-career appointees.”⁶³ This ensured that PAS positions would be vacant or populated with “acting” appointees from the career services at the beginning of a new administration.

Transition operations usually create transition teams to visit departments and agencies to be informed of issues that will require administrative action in the early days of the new presidency and to make recommendations to the president-elect concerning both policy and organizational matters. Typically, the members of those task forces see themselves as potential future political appointees in the departments they are visiting. The Obama administration, however stressed that being on a transition team was no guarantee of a job— even to the point of requiring members to sign an acknowledgement of that fact.⁶⁴

Political patronage has a long and colorful history in the United States. The purposes of patronage appointments are to reward people for working on the campaign, and to ensure that the government is led by people who are committed to the political philosophy and policy agenda of the president. Not all pressures for patronage are illegitimate, but they are inevitable. As long as favorable responses to patronage demands are consistent with putting qualified people in charge of government programs, there is no problem.

But from the perspective of the OPP, pressures for patronage are frustrating. Demands for appointments come from all sides: the campaign, the political party, self-initiated job seekers, and from Congress. Everybody, it seems, wants to ride the president’s coattails into Washington jobs. According to Pendleton James, “The House and Senate Republicans just start cramming people down your throat.”⁶⁵

Fred Malek, the head of the White House Personnel Office for Nixon, puts political loyalty and campaign service into perspective. He argues that loyalty is certainly central in making political appointments, but that campaign service is not sufficient.

Too many administrations, *too many* administrations get staffed by the campaign. The qualities that make for excellence in a campaign are not necessarily the same as make for excellence in governing ... To govern you need, I think, people who are of a somewhat

⁶⁰ Nash interview, p. 13.

⁶¹ “An Effective 2008 Transition,” p. 625.

⁶² Gips interview, June 9, 2009, p. 10.

⁶³ *Before the Oath*, pp. 224-225.

⁶⁴ Gips interview, June 9, 2009, pp. 22-23.

⁶⁵ Quoted in Pfiffner, *The Strategic Presidency*, p. 70.

more strategic and substantive bent than you necessarily need in a campaign. Campaigns are more tactical ... In governing I think you need a better sense of strategy and a better sense of management.⁶⁶

It is important to the integrity of the personnel process that the only path to a presidential appointment is through the OPP. Carter's memoirs reflect his frustration over the pressures for political appointments:

The constant press of making lesser appointments was a real headache. Even more than for Cabinet posts, I would be inundated with recommendations from every conceivable source. Cabinet officers, members of Congress, governors and other officials, my key political supporters around the nation, my own staff, family and friends, would all rush forward with proposals and fight to the last minute for their candidates.⁶⁷

The problem was that Carter was not using his OPP as a buffer in his early months in office. Insofar as the president can channel pressures for jobs to his OPP, he or she is under less immediate pressure to make a decision. When the candidate and position has been run through the OPP process, the president can make a fully informed choice. Lyndon Johnson used John Macy's personnel recruitment system as a buffer. When he was pressured for patronage appointments, Johnson would say, "I am doing this through the merit route." And when someone was displeased with a particular appointment he would say, "Don't blame me. It's that goddamn Macy—he insists on merit."⁶⁸

Handling the demand for jobs for the party faithful is stressful for the president's personnel recruiter, and people representing the party and campaign workers often complain that their loyal supporters are not getting enough jobs. Nixon, Carter, Reagan, and Bush (41) all got attacked publicly for not appointing enough of the party faithful shortly after their elections.⁶⁹

Pressure from Congress is considerable. Pendleton James said that he got some advice from the legendary Bryce Harlow, who ran congressional relations for Eisenhower. Harlow told him, "The secret to good government is never, ever appoint a Hill staffer to a regulatory job. That Hill staffer will never be the president's appointee. He or she will always be the appointee of that congressman or that senator who lobbied you for that job. And they will be beholden to that senator or to that congressman." After James' talk with Harlow, a senator came to talk with James, and after mentioning that 64 of the Reagan nominations had to go through his committee, demanded that several of his staffers be appointed to regulatory positions. Remembering Harlow's advice, James went back to the White House and asked Chief of Staff James Baker how to handle the situation. Baker said, "Give it to him." Some pressures from Congress cannot be ignored.⁷⁰

Some friends of the president may have strong claims based on their political support but may not be qualified for high-level managerial positions. This is a

⁶⁶ Malek interview, p. 13.

⁶⁷ Jimmy Carter, *Keeping Faith* (NY: Bantam Books, 1982), p. 61.

⁶⁸ *People, Position, and Power*, p. 15.

⁶⁹ *The Strategic Presidency*, p. 69-72, 139.

⁷⁰ James interview, p. 12.

predictable challenge for the OPP director. But there is an art to dealing with the people who must be turned down for positions with the new administration. Fred Malek noted that some recommendations cannot be ignored. “You’ve got to get back to those 10 members of Congress and explain to them why their candidate didn’t get it. You can’t just say ‘Sorry, Charlie’”⁷¹ Christopher Lu, executive director of the Obama transition said, “The real challenge is what do you do with the 23-year old field organizer who has camped out in a battleground state for the last six months and has organized all kinds of volunteers? It’s an incredibly important skill. . . . Trying to translate that skill to governing is a much harder challenge that all administrations face.”⁷²

Chase Untermeyer explained how to deflect patronage demands: “That person can also be rewarded in other ways with advisory commissions or invitations to State dinners or other things that are within a gift of the president to do short of putting that person in charge of a chunk of the federal government.”⁷³ Constance Horner explained other ways to deal with applicants unqualified for certain positions.

There are numerous part-time boards and commissions that offer advice on environmental matters where people come to Washington four times a year and they discuss the issues and make recommendations. Sometimes those recommendations matter in policy outcomes, sometimes they are just a way of getting a conversation going, but people will frequently be delighted to be chosen for one of those often honorary positions because what they’re looking for is not really a full-time job; they’re looking for service in the administration, a feeling of being part of it all, the honorable before their names.⁷⁴

She concluded, “for every person you choose, you’re turning down 10, 15, 20 people who want the job.” “[T]here is no way to do this and make everybody happy.” Clay Johnson quipped, “the president makes the appointments and the personnel people make the disappointments.”⁷⁵

3. Loyalty and Subcabinet Appointments

In recruiting political appointees, in addition to competence, a primary criterion is loyalty, but the definition of loyalty is not a fixed target. Some interpret loyalty as service to the political party over the years, others see it as ideological compatibility with the president, still others see it as personal service to the candidate in the past or in the most recent campaign.

For a transition to a president of the same party, this can be brutal. Chase Untermeyer described his experience filling positions for Bush 41, who succeeded fellow Republican Ronald Reagan. He had to turn away loyal office holders from the Reagan and previous administrations. Untermeyer was sympathetic to the “baleful-looking

⁷¹ National Academy of Public Administration, “Recruiting Presidential Appointees,” p. 23.

⁷² “Presidential Transitions In a Bipartisan Setting,” transcript of the panel discussion at the George W. Bush Presidential Center, Dallas, Texas (July 11, 2016), p. 36.

⁷³ Untermeyer interview, p. 12.

⁷⁴ Horner interview, pp. 12-13.

⁷⁵ “Presidential Transitions In a Bipartisan Setting,” transcript of the panel discussion at the George W. Bush Presidential Center, Dallas, Texas (July 11, 2016), p. 35.

veterans of the Nixon and Ford administrations, and even in one case the Eisenhower administration, who felt that because they had been wonderful civil servants and devotees of George Bush that they, of course, would be prime candidates to be in our administration.” But the political reality was that “our job was to find places for people who had worked in the 1988 campaign.”⁷⁶ The new president may want his or her own people and thus have to “throw out” of office loyal incumbents of the same party.

While all PAS appointments are constitutionally the president’s decision, the practical and prudential approach to sub-Cabinet appointments (deputy, under, and assistant secretaries) is not quite so clear-cut. In the 1950s and 1960s, when the White House did not have the recruitment capacity it has now, it was most often the Cabinet secretary who suggested to the president the preferred nominee, and most often the president went along. In nominee battles between the White House staff and the Cabinet secretary, most often the Cabinet secretary won.⁷⁷

From the perspective of the Cabinet secretary, the issue is one of building a management team for the department. Each person has to be chosen carefully, with full consideration for how that person fits into the structure and how they will get along with the others on the team. Those in the Cabinet are suspicious that the White House Office of Presidential Personnel will weigh too heavily the political service of the appointee and will neglect the expertise, managerial ability, and compatibility of the nominee with the other executives in the department.

The White House staff tends to suspect that Cabinet secretaries are likely to recruit people who are loyal to the Cabinet secretary but not necessarily to the president. Douglas Bennett described the process in the Ford administration:

You start at the top and then you present the Cabinet officer with a list of candidates for deputy and then for the sub-Cabinet posts within his department or her department. You don’t say, ‘Okay, you’re a Cabinet officer; you pick the rest.’ That won’t happen because these are all appointees of the president. They’re not appointees of Secretary Jones; they’re appointees of President Ford.⁷⁸

From the very beginning of transition planning, the Reagan administration decided to control political appointments tightly in the White House. Pendleton James explained that some earlier presidents had failed to make sure that the White House controlled sub-Cabinet appointments. “Nixon, like Carter, lost the appointments process.”⁷⁹ One danger is that a newly selected Cabinet nominee will ask the president for the authority to appoint his or her own team. But agreeing to that is a big mistake. So, according to James:

We didn’t make that mistake. When we appointed the Cabinet member, he wasn’t confirmed yet. We took him in the Oval Office; we sat down with the president ... And we said, “All right...we want you to be a member of the Cabinet but one thing you need

⁷⁶ Untermeyer interview, p. 37.

⁷⁷ *The Strategic Presidency*, p. 66.

⁷⁸ Bennett interview, p. 27.

⁷⁹ *The Strategic Presidency*, p. 67.

to know before you accept is we, the White House, are going to control the appointments. You need to know that.⁸⁰

In contrast, Frank Carlucci, Secretary of Defense in the Reagan administration, articulated the Cabinet secretary's point of view.

Spend most of your time at the outset focusing on the personnel system. Get your appointees in place, have your own political personnel person, because the first clash you will have is with the White House personnel office. And I don't care whether it is a Republican or a Democrat ... if you don't get your own people in place, you are going to end up being a one-armed paper hanger.⁸¹

Of course, if a member of the Cabinet is a close friend of the president, that person will have more leeway in selecting his or her subordinates. So even the Reagan administration OPP did not have absolute control.

Some kind of cooperative arrangement must be worked out so that both the Cabinet secretary and the White House staff can agree on nominees. Untermeyer points out that if the White House insists on a nominee over the objections of the Cabinet secretary, that person can be frozen out of the action at the department level and thus not be an effective appointee. His formula for balance between the White House and Cabinet secretaries is: "No department or agency chief will have an appointee forced down his or her throat, that is, imposed by the White House. Conversely, every decision is a presidential decision."⁸²

The Clinton administration handled sub-Cabinet appointments by developing a list of potential nominees in the Office of Presidential Personnel and giving Cabinet secretaries an opportunity to choose from among those on the list. According to Robert Nash, who worked in the transition personnel operation and later became director of the Office of Presidential Personnel,

...we came up with a list of about 10 names per PAS that were shared after going through a long, arduous process. We worked seven days a week, 14 and 16 hours a day. Those lists would go to the president. He'd look at them and say "all these are good people, share them with the Secretary." The Secretary would look at them and the Secretary would say "that's the one right there I'd like to have." That's the process.⁸³

Each new administration must reach a balance between the OPP and Cabinet secretaries about recommending nominations to the president. What is important is that this accommodation be made explicitly and at the direction of the president rather than through inertia. Clay Johnson eased the friction by sending a personnel staffer to each newly designated Cabinet secretary to tell them that "We were going to do it *with* them, not *to* them."⁸⁴ In balancing appointee characteristics, he said that aside from merit, the

⁸⁰ James interview, p. 6.

⁸¹ Interview with Frank Carlucci, secretary of defense in the Reagan administration, conducted by the staff of the NAPA Presidential Appointee Project, 1985, quoted in Pfiffner, *The Strategic Presidency*, p. 66.

⁸² Quoted in Pfiffner, *The Strategic Presidency*, p. 140.

⁸³ Nash interview, p. 16.

⁸⁴ Patterson interview with Clay Johnson, quoted in *To Serve the President*, in the chapter "Control All the Way Down."

OPP might be more sensitive than Cabinet secretaries to “diversity, political acceptability, confirmability, [and] clearance issues.” He said that each side could “blackball somebody.”⁸⁵ The Obama OPP generally deferred to Cabinet secretaries and agency heads. Don Gips said that Obama “was very clear that he’s hired these secretaries to run their agencies, so he’s really counting on them to make their selections.”⁸⁶ He noted that Secretary of State Hillary Clinton got whomever she wanted.⁸⁷

Thus, many tough personnel choices will have to be made by the director of OPP, and many of them will hinge upon which kind of loyalty to weigh more heavily. But it should be kept in mind that the long-term success of the president’s administration will depend heavily upon the substantive competence of the people appointed to manage the departments and agencies of the executive branch.

4. Disincentives for Potential Nominees

Shortly after inauguration, the president should have nominated his Cabinet appointments, and the OPP should have short lists for most sub-Cabinet nominees. Once nominees are announced, the previous vetting takes on added importance. Recent presidents have had their early progress slowed by scandals when the press discovers irregularities in presidential nominees. Don Gips emphasized the importance of complete frankness on the part of possible nominees about potential problems. It is much less embarrassing—both for the administration and the nominee—if these are addressed before a formal nomination is made.⁸⁸

Recent administrations have faced difficulties in making presidential appointments because of scandals that came to light after candidate had been formally nominated for confirmation. Some of these were caused by gaps in the vetting process, and some were self-inflicted by public promises by presidential candidates. Some potential nominees have even refused to be considered for appointment for fear of unflattering publicity or the cost of complying with ethics laws and restrictions.

Clinton’s first two nominees for attorney general withdrew their nominations because of “nanny problems.” Zoe Baird had hired illegal immigrants for domestic help and had not paid Social Security taxes for them. Clinton’s second nominee, Kimba Woods, was also sidetracked when it was disclosed that she had hired an illegal alien as a nanny for her child, though she had not broken the law.⁸⁹ George W. Bush, in an exception to his administration’s careful vetting, decided to withdraw his nomination of Linda Chavez for secretary of labor when it was disclosed that she had paid an illegal immigrant for domestic work. A more egregious exception occurred when he nominated Bernie Kerik to be secretary of the Department of Homeland Security in 2004.⁹⁰ Within a week, Kerik withdrew because he had hired an undocumented worker

⁸⁵ Johnson interview, September 4, 2001, pp. 7, 11.

⁸⁶ Ibid, p. 8.

⁸⁷ Gips interview, March 17, 2016; *Before the Oath*, p. 234.

⁸⁸ Johnson interview, September 4, 2001, p. 27.

⁸⁹ See *The Strategic Presidency*, p. 175.

⁹⁰ Gregor interview, p. 9.

as a nanny for his child. Kerik was later convicted of tax fraud and making false statements and sentenced to several years in federal prison.

Obama faced problems with some of his nominees not paying taxes. Former Senate Majority Leader Tom Daschle, who had been nominated as secretary of health and human services, had not paid taxes for services he had received and had to withdraw. Nancy Killefer, whom Obama wanted to be chief performance officer at the Office of Management and Budget, also had to withdraw because of unpaid taxes. Obama's nominee for secretary of commerce withdrew because of federal investigations into his record as governor of New Mexico.⁹¹

Even if candidates for nomination have nothing illegal in their backgrounds, the appointment process and ethics vetting can discourage good candidates for appointments. For wealthy candidates, salary may be a problem because they make many multiples of the salary they would get in the federal government. For less affluent candidates, the cost of legal help in preparing financial disclosures and ensuring against conflicts of interest can be high, often in the tens of thousands of dollars. Steven Rattner was nominated to work in the Treasury Department on the auto bailout for Obama, and his legal fees amounted to \$400,000.⁹² Other candidates report paying lawyers and accountants thousands of dollars to ensure that their financial disclosure forms are completed correctly. Making the financial calculations to fill out the financial disclosure forms was complicated enough that in the 1990s, 25 percent of appointees spent between \$1,000 and \$10,000 for outside expert advice and 6 percent had to spend more than \$10,000.⁹³ Clay Johnson summed up typical reasons for candidate turndowns: "can't afford to move the family ... take the kids out of their senior year of high school ... can't afford to give up my umpteen hundred thousand dollar a year job; can't afford to sell my stock ..."⁹⁴

But candidates who are not deterred by relatively low salaries or personal reasons can also easily be discouraged by what sometimes seems a brutal process. While high-level political appointments have always generated controversy and sometimes confirmation battles in the Senate, the process has in recent administrations been exacerbated by active interest group involvement and public controversy. The confirmation process can be harrowing when the political opponents of the president search for embarrassing incidents from the lives of nominees that they can use to embarrass the president and defeat a nomination. Christopher Lu recalled his vetting: "You are opening your life up to a lot of people . . . when I was in college, I wrote a column for the school newspaper, and they asked me to get a copy of every single

⁹¹ *Before the Oath*, pp. 208-209, 237.

⁹² Terry Carter, "Federal Nominees Turn to Law Firms to Play Vetting Game," *ABA Journal*, November 1, 2013, http://www.abajournal.com/mobile/mag_article/lawyers_help_federal_nominees_play_a_vetting_game/.

⁹³ Paul C. Light and Virginia L. Thomas, "The Merit and Reputation," p. 27.

⁹⁴ Johnson interview, September 4, 2001, p. 15.

column I had written 30 years ago. . . . I had to divest every individual stock I owned.”⁹⁵ Clay Johnson added, “you’ll have to come forward with this, everything that has occurred in your life. When it becomes known – not if – when it becomes known, you’ll have to live with it and take public ownership of it.”⁹⁶

The media also avidly investigate the backgrounds of high-level nominees searching for embarrassing peccadilloes that can be magnified to gain partisan leverage. “Opposition research” by the opposing political party often finds its way into the newspapers.

Stephen Carter in his book, *The Confirmation Mess*, wrote:

In American today are hundreds, perhaps, thousands, of people in private life who might otherwise be brilliant public servants but will never have the chance because for some reason, they are not enamored at the thought of having the media and a variety of interest groups crawl all over their lives in an attempt to dig up whatever bits of dirt, or bits of things that could be called dirt ... that turns tiny ethical molehills into vast mountains of outrage, while consigning questions of policy and ability to minor roles.⁹⁷

Running the gauntlet of White House vetters, the agency ethics office, the Office of Government Ethics, and Senate confirmation can be discouraging. According to Robert Rizzi, a Washington lawyer who has advised presidential nominees, “the whole tax area has metastasized into a whole set of hurdles. . . . Government ethics has become weaponized.”⁹⁸ Aside from the slowing of the confirmation of administration nominees, press scrutiny of “scandals” diverts public attention from the policy agenda of the new presidency and slows its momentum.

Even if nothing embarrassing about a nominee has come out, delays in nominations after they reach the Senate can be exasperating. Anthony Lake, national security adviser to Clinton, withdrew from Clinton’s nomination to be CIA director. He said that the confirmation process was a “political football in a game with constantly moving goal posts.” The confirmation process was “nasty and brutish without being short.”⁹⁹ Bill Galston and E.J. Dionne decry the “media environment in which every nominee’s smallest flaw might be magnified into a major—or, at least, much televised and blogged about—scandal.”¹⁰⁰ Robert Rizzi, who works for a Washington law firm, said that he has had clients who say “‘This is ridiculous. I can’t do it. I’m out of here.’ And that’s bad for the country.”¹⁰¹

⁹⁵ “Presidential Transitions In a Bipartisan Setting,” transcript of the panel discussion at the George W. Bush Presidential Center, Dallas, Texas (July 11, 2016), p.52.

⁹⁶ “Presidential Transitions In a Bipartisan Setting,” transcript of the panel discussion at the George W. Bush Presidential Center, Dallas, Texas (July 11, 2016), p.52.

⁹⁷ Stephen L. Carter, *The Confirmation Mess* (NY: Basic Books, 1994), p. 5.

⁹⁸ White House Transition Project, interview of Robert Rizzi by Martha Kumar (August 3, 2016), pp. 23, 9.

⁹⁹ Quoted in “Hung Out to Dry,” *Washington Post*, April 1, 2001.

¹⁰⁰ “A Half-Empty Government,” p. 5.

¹⁰¹ “Federal Nominees Turn to Law Firms,” November 1, 2013.

5. Confirmation, Delays, and Vacancies

As the Constitution requires, all PAS officers of the United States must be confirmed by the Senate. Confirmation provides a legitimate check on the executive branch, but it also slows the appointments process, which is frustrating to the president and embarrassing for the nominee. Before a nominee can be formally nominated, he or she must survive vetting by the OPP, a national security investigation by the FBI, and financial scrutiny by the Office of Government Ethics. When these vettings are finished in the executive branch, the president sends a formal nomination to the Senate and it is referred to the appropriate committee. The committees have their own questionnaires that duplicate much of the information required by the executive branch.

In some cases, hearings can be contentious, with the opposition party trying to embarrass the new president. In addition, individual senators can place a “hold” on a nomination, either because of objections to the nominee, or for any other reason having nothing to do with the nominee. Increasingly, senators use holds to put pressure on the president or to insist that federal facilities be located in their home states.¹⁰² Until November 2013, a hold was considered the equivalent of a filibuster, and it took 60 votes for cloture to force a floor vote on the nominee. Because of frustrations with delays and holds put on Obama’s nominees, the Senate voted to change its rules to allow its votes to go forward by a majority vote of the Senate, rather than the previously required 60 percent.¹⁰³

Now a simple majority of those present and voting can force a floor vote. Despite this change in Senate rules, the delay rate after the rule change did not improve.¹⁰⁴ In early 2014 Obama nominated Cassandra Butts to be ambassador to the Bahamas. But Senators Ted Cruz, R-Texas, and Tom Cotton, R-Ark., placed holds on the nomination for reasons having nothing to do with the qualifications of Cassandra Butts. As of May 2016, she had been waiting 850 days for the Senate to have hearings and hold a vote.¹⁰⁵

Because of the importance of Senate hearings, senior nominees are often assigned a “sherpa” to help them navigate the confirmation process, including personal visits to individual senators before hearings. Nominees may also be prepared at simulated hearings where “murder boards” composed of those experienced in their future agencies ask the nominee difficult questions that are likely to be asked during formal Senate hearings. Obama administration murder boards were conducted in the agencies, not the OPP.¹⁰⁶ According to Tom Korologos, who has advised more than 300 presidential nominees, the role of the nominee is “that of a bridegroom at a wedding. Accordingly, you should: Stay out of the way. Be on time. Keep your mouth shut. . . . Spend every

¹⁰² See for example, *Before the Oath*, pp. 227-228.

¹⁰³ For a discussion of delays in the Obama administration and the “nuclear option,” see Anne Joseph O’Connell, “Shortening Agency and Judicial Vacancies Through Filibuster Reform?” *Duke Law Journal* 64 (2015): 1649-1650.

¹⁰⁴ *Ibid.*, pp. 1653, 1677.

¹⁰⁵ Frank Bruni, “An Obama Nominee’s Crushed Hopes,” *New York Times*, June 6, 2016. Ms. Butts died before a vote was taken.

¹⁰⁶ Gips interview, June 9, 2009, p. 16.

waking moment preparing. . . . develop an answer to the one question you do not want asked. . . . Accept that the hearing will not be fair. . . . You have no rights. . . . So be polite and deferential.”¹⁰⁷

Senate hearings on nominees are part of the cause of delays that leave executive branch agencies without leadership in key positions. Cabinet secretaries are usually on board within the first few weeks of a new administration, but they often suffer the “home alone” syndrome, with their key sub-Cabinet positions vacant. The nominees’ frustration has increased in part due to the length of time from nomination to appointment. From 1964 to 1984, 48 percent of nominees were confirmed within two months; but from 1984-1999, only 15 percent were confirmed within two months, and 30 percent waited more than six months.¹⁰⁸ Another measure of delays is the average number of days to fill PAS positions, which has increased significantly in the past several decades; the average time to fill a PAS position in the Reagan administration was 194 days, and the average in the Bush 43 administration was 242 days.¹⁰⁹ Delays in confirmation do the most harm in the beginning of a new presidency, but vacancies throughout the term hamper the administration of the executive branch.

Law professor Anne Joseph O’Connell has calculated that between 1981 and 2014, 25 percent of nominees submitted to the Senate were not confirmed.¹¹⁰ The average time for confirmation over this period was 88.5 days, but it was 127.2 days for the Obama administration.¹¹¹ The average time for failed appointments 179.7 days.¹¹² At the 100-day mark, Reagan had filled 27 percent of PAS positions, but Obama had filled only 17 percent of his. At the one-year mark, 86 percent of Reagan’s PAS appointees were on board, and only 64 percent of Obama’s appointees had been confirmed.¹¹³

Of course, the routine functions of government continue to be carried out by the civil and military officials responsible for implementing policies that are in place. But they cannot represent a new administration, provide policy leadership, or make decisions about significant changes in policy. In addition, increasing layers of political appointees mean there are fewer career executives who have the requisite experience to serve effectively at the highest levels of departments and agencies.

Vacancies early in an administration may affect crucial policy areas. On May 1 of the first year of the Clinton, Bush, and Obama administrations, only about half of the most important positions in national security had been filled.¹¹⁴ Despite the financial emergency faced by the Obama administration in 2009, most of the sub-Cabinet

¹⁰⁷ Tom C. Korologos, “The Art of Getting Confirmed,” *Washington Post* (January 5, 2009).

¹⁰⁸ *Merit and Reputation*, p. 8.

¹⁰⁹ Anne Joseph O’Connell, “Let’s Get It Started,” Center for American Progress (January 2009), p. 6.

¹¹⁰ “Shortening Agency and Judicial Vacancies,” p. 1651.

¹¹¹ *Ibid.*, p. 1652.

¹¹² *Ibid.*, pp. 1667, 1669.

¹¹³ See Anne Joseph O’Connell, “Waiting for Leadership,” Center for American Progress, April 2010, pp. 7, 8.

¹¹⁴ Business Executives for National Security, “Making Senior Government Service More Attractive” (Washington, D.C., March 2015), p. 11.

positions in the Treasury Department were not filled.¹¹⁵ Obama did not nominate anyone for Treasury's sub-Cabinet posts until March 8; even then he put forth only three names for the more than 20 PAS positions open at the time.¹¹⁶ Sen. Chris Coons, D-Del., says "It's trying to run the executive branch on top of a block of Swill cheese full of hones."¹¹⁷

Although all presidents and especially nominees complain about delays in confirmation by the Senate, most of the problem of delayed appointments is actually due to the time it takes the president to nominate appointees. In the Obama administration, the average number of days it took to nominate appointees was 131 days, but the lag due to the Senate confirmation process was 61 days.¹¹⁸

Later in administrations, vacancies in executive positions continue to undermine the president's ability to lead the executive branch. A number of factors contribute to the constant churning of leadership positions. Some executives just do not perform up to expectations and when they leave, the replacement often wants to bring in his or her own subordinates; some perform very well and are promoted to higher positions. In the last two years of a presidential term, some appointees leave for more lucrative jobs in the private sector, particularly if it seems that a new president will be elected at the end of a term. From the Carter through Bush 43's first term, executive branch PAS positions were vacant or filled with acting officials an average of 25 percent of the time.¹¹⁹

In 2013, 30 percent of 53 civilian Department of Defense positions were vacant or filled by acting officials.¹²⁰ Also in 2013, 17 of 44 positions at the highest levels of the Department of Homeland Security were vacant, including the secretary and deputy secretary as well as the chief of staff and the general counsel.¹²¹ In May 2016, nominees for nine of 12 ambassadorial vacancies had been waiting for 100 or more days, with one nominee waiting more than 500 days for Senate confirmation.¹²²

Despite the flood of applications to handle and the urgency of vetting, the OPP should keep in mind that the nominees themselves may feel abandoned as they wait for a formal nomination or Senate confirmation. They may have put their professional lives on hold or divested themselves of valuable stock investments. Keeping in touch with them is important.

Once nominees have been confirmed, the White House and agencies should follow up to make them part of a team. Many of the best private corporations have formal

¹¹⁵ "A Half-Empty Government," p. 1.

¹¹⁶ Anne Joseph O'Connell, "Vacant Offices: Delays in Staffing Top Agency Positions," *Southern California Law Review* 82 (2009): 913.

¹¹⁷ Darren Samuelsohn, "Obama's Vanishing Administration," *Politico*, January 5, 2016.

¹¹⁸ See "Waiting for Leadership," p. 10.

¹¹⁹ "Vacant Offices," pp. 921, 997-998.

¹²⁰ "Making Senior Government Service," p. 12.

¹²¹ John Hudak, "Appointments, Vacancies and Government IT: Reforming Personnel Data Systems," (Washington: Brookings Institution, 2014), p. 1.

¹²² Charles S. Clark, "The Ambassadorial Confirmation Scorecard," *Government Executive*, December 18, 2016.

“onboarding” programs to orient and prepare new executives for their duties. Position-specific orientation should be done at the agency level, but the White House should provide orientations designed to make new appointees feel part of the team and that emphasize administration-wide priorities.¹²³

As important as it is to fully staff the transition personnel operation, it is equally important to ensure that the Office of Presidential Personnel has sufficient staffing to recruit and vet the nominees who, if confirmed, will help run the government throughout a presidential administration.

V. LESSONS LEARNED

The Office of Presidential Personnel has been thoroughly institutionalized in the White House Office, and the Presidential Transition Act has been amended to facilitate the transition to a new president. Despite the increasing professionalism and resources devoted to recruiting presidential appointees, serious challenges interfere with the office’s function. The tension between competence and political patronage is inherent in the U.S. political system. The flood of applicants for government jobs will continue to increase. New categories of scandals will be discovered, and the complexity of recruiting the right mix of presidential appointments will not get simpler. All of these factors, along with Senate confirmation, combine to slow the process of recruiting leadership for the executive branch.

In light of these challenges, the following lessons have been gleaned from the last several decades of recruiting presidential appointees:

- Begin personnel planning well before Election Day, keeping it confidential and separate from the campaign.
- Personnel planning for the transition should be the responsibility of one person who has agreed to head the OPP during at least the first six months of the new administration.
- This person should have the title of Assistant to the President, and the OPP should be the funnel through which all PAS nominations must pass; this will buffer the president from eager office seekers.
- The OPP should make it clear that the president reserves the right to name any political appointee in the departments and agencies, but this authority should be used sparingly for most sub-Cabinet appointees. The selection process should be mutual.
- The OPP should provide aid and advice to nominees and keep in touch so that they do not feel abandoned as they wade through the myriad forms and wait during the lengthy appointment process.

¹²³ For an analysis of best practices, see “Making Senior Government Service More Attractive,” pp. 21-23.

- New nominees should seek the advice of those who have held the positions for which they are nominated.

Following these rules will not guarantee a smooth recruitment process, but neglecting them will likely lead to serious problems.