

ONE

*Toward Regular Assessment
of National Governmental
Institutions*

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The September 11, 2001, terrorist attacks on New York's World Trade Center and government sites in Washington, D.C., raised profound questions of governance that will reverberate for many years. In this case, the government's power to act was unquestioned. Protection of their citizens is the paramount function of every government at every level; laws and ordinances conferred ample authority upon a host of protective agencies, from the U.S. military and intelligence services to the New York City fire and police departments.

The questions raised in the aftermath of the attacks were not primarily about the various governments' powers, or even about their policies. The questions that were raised centered on the agencies' capacities—their personnel, their procedures, their work habits and styles, their way of interfacing with other agencies. These are the kinds of attributes we have termed “the workways of governance.”

Could the terrorist acts have been prevented by timely application of intelligence reports and surveillance? And if these attacks could not have been prevented, how many additional lives might have been spared by optimal responses from government agencies? No one knows the answers to these questions. Nonetheless, subsequent inquiries uncovered working traditions in front-line agencies—for example, the intelligence community (notably the Central Intelligence Agency and the Federal Bureau of Investigation), the Immigration and Naturalization Service, and the military commands—that severely hindered government's response to the threat of terrorism and to the event itself.¹

The joint congressional panel named in 2002 to investigate intelligence practices before the attacks, for example, concluded that the two primary entities, the FBI and the CIA, “missed warning signals of the impending attacks and focused too much attention on threats overseas rather than on the possibility of an attack on United States soil.”² These and other agencies, moreover, failed to process reports of terrorists’ activities and communicate with one another so that the disparate clues could be placed in perspective and acted upon. (Needless to say, the targeted agencies reacted defensively: the CIA director sent an angry letter of protest to the joint committee, while the FBI tried in vain to get a court order forbidding its agents from testifying on Capitol Hill.)

The hard-won wisdom of these soul-searching inquiries was, first, that government workways are important, and indeed critical, for the nation’s well-being; and, second, that defects in government operations are most readily discovered in events of crisis or scandal—all too often only after the damage has been done.

Crisis events—the attacks of September 2001 are only the most conspicuous examples—do challenge us to consider how our democratic institutions can be made to operate more effectively. However, why must we wait until a crisis has occurred to consider the capacities and performance of institutions that must deal with the challenges? To use the metaphors of students of governmental oversight, it is a question of substituting an ongoing “police-watch” review for a crisis-driven “fire-bell” response.³ How much better would be a systematic and periodic evaluation of government agencies—a process that would attempt to measure the health of the agencies, rather than identifying the causes of some disaster that has already occurred. At the very least, such practices would minimize the finger-pointing blame game that follows governmental failures of truly tragic proportions.

Genesis of the Workways Project

The work that resulted in this volume began several years before the tragedies of September 2001. We did not embark on this enterprise with the assumption that our branches of government were necessarily corrupt or even dysfunctional. Rather, we were troubled by a growing sense that government entities at the national level had, over time, evolved into structures and developed procedures and customs that had the effect of con-

stricting their workers' abilities and hampering their collective effectiveness. Pundits, scholars, and even public officials themselves speak candidly from time to time about their frustrations with the institutions they serve. But we were troubled by the seeming absence of systematic, ongoing, and nonpartisan evaluations of how effectively these entities work on a day-to-day basis. "The workways of governance" is the term we employ for the object of our inquiries.

How can we judge the health of our public sector institutions? How can we know when these institutions are working effectively, or when they are troubled or ineffectual? What measures of institutional health can be developed, compiled, and applied to help us make such judgments? And can such measures be used to produce periodic benchmark reports—along the lines of medical checkups or performance reviews—that will help knowledgeable outside observers, the general public, and even those inside the institutions to reach informed and balanced conclusions about the relative health and effectiveness of these institutions?

The Workways of Governance project was sponsored by the Governance Institute, a nonprofit research organization incorporated in 1986. The Institute is dedicated to exploring, explaining, and ameliorating problems associated with the separation and division of powers in the U.S. federal system. It is interested in how the levels and branches of government can best work with one another, and in how organizational problems—internal or interagency—can frustrate the functioning of government. The present effort, therefore, emerged logically from the institute's core mission. The investigators were selected for their experience and expertise in the respective national governmental institutions; their reports are collected in this volume.

A unique feature of the project is the effort to develop a periodic review of the quality of institutional life and work in government. Guidelines for evaluating and monitoring governmental entities will be established. On an annual or biennial basis (or less frequently, for some indicators), the state of each institution would be monitored and a report issued evaluating each branch. Such a monitoring process would be designed to raise the level of elite and public understanding and ultimately to serve as an agent for change in the effort to improve the capacity of government. The report would consist of both objectively measured data and subjective evaluation. Perhaps the most useful analogy was proposed by senior U.S. Circuit Court judge Frank M. Coffin: the periodic physical examination, where tests of various types, together with the physician's

observations and the patient's own testimony, combine to help define the patient's status and prospects.

The Governance Institute's investigators began in 1997 by assessing, in general terms, the operational strengths and weaknesses of the chief national-level governmental entities: the House of Representatives, the Senate, the presidency, the civil service, and the federal courts. Subsequently, the investigators delved more deeply into the question of specific performance measures for the governmental branches.

Why Current Reviews Are Sporadic and Unreliable

Public understanding of the work of our national government flows in part from people's impressions of how well or poorly they provide their services. Of course, few people outside the Beltway can, or need to, master the intricacies of how government works. Yet the public benefits from a rough understanding of how laws are made, how programs are disseminated, and how legal judgments are arrived at. The public's long-term support, moreover, hinges upon an overall feeling that legislatures are capable, responsive, and ethical; that chief executives are at once resolute and flexible; that judges are fair and independent; and that government employees are accessible, sympathetic, and helpful.

Despite their obvious importance, governmental institutions are poorly understood by outsiders. The presidency is no doubt the best understood of all the national branches because a single human being, the president, is so often the focal point. Very little of the complexity of White House decisionmaking, much less of its relationships with executive agencies, penetrates the public's consciousness. Except on rare occasions—for example, the 1995 Oklahoma City bombing, the 2001 terrorist attacks, and other national disasters—federal workers are considered “faceless bureaucrats” who make things difficult for people dealing with federal agencies. Congress, with its collectivity of members, complex structure, and opaque procedures, makes it hard for people beyond Capitol Hill to grasp its character or performance. People know what judges do—though “Judge Judy” is no doubt more familiar than any of the sitting federal judges—but most of the rules and precedents that frame and underpin judicial pronouncements are beyond the average citizen's knowledge.

To the extent that these branches are judged at all, they are evaluated mainly on the basis of overall attitudes about politics, policies, and the state of the nation.⁴ Do people like the way things are going, or are they

worried? Are they optimistic or pessimistic about the nation's future and their own? How critical are they of politicians and other public figures? How do they regard public employees, individually and in general?

Incumbents in federal offices cannot be depended upon to convey to their constituents a sense of their institution and its workings. For example, the national legislature—and especially the U.S. House of Representatives—is the branch of government intended to be closest to the people. Yet as Richard F. Fenno Jr. found a generation ago, members of Congress typically stress their individual stewardship and try to distance themselves from the institution; they “run for Congress by running *against* Congress.”⁵ Evading collective responsibility for the institution's performance, representatives make it even harder for citizens to view the House as a whole. As Fenno concluded: “Representatives do very little . . . to help their supportive constituents to conceptualize the House as an institution. And if they do not encourage their constituents to think that way, the people will be much less likely to think about, much less to appreciate, the institutional strengths of the House.”⁶

Nor can we rely on the communications media to convey a full-length portrait of these governmental institutions. Government agencies are not equally open and accessible to outside probing; the press, for its part, obsessively follows certain agencies and ignores many others. Congress is undoubtedly the most open of national institutions, and the House and (especially) the Senate are covered by a large and diverse press corps, local as well as national. The president is the world's most conspicuous political figure, covered by platoons of domestic and foreign correspondents. But the actual workings of the presidency—embracing the White House decision structures and their advisory networks—are opaque and closed to all but a few favored individuals, who may be provided with “leaks” calculated to advance the presidential agenda. Federal courts are covered by a small but specialized cadre of journalists; but their internal workings are famously shut to prying eyes. As for the large number of executive agencies, they range widely both in their openness to outsiders and in the level of attention accorded them by the press. Their activities are normally followed by specialized trade papers, except when scandals or disasters occur—in which case the agencies are the object of intense but inevitably fleeting scrutiny.

In any case, neither reporters nor their editors or producers can convey the elements—some of them subtle and only tangential to breaking news stories—that would point to the institutions' overall effectiveness or inef-

fectiveness. First, major news outlets have curtailed their coverage of national politics in general, not to mention their coverage of governmental entities.⁷ Second, the focus of media coverage has shifted, with fewer stories about policy issues and more on scandal, wrongdoing, and corruption. Such stories tend only to reinforce popular negative stereotypes about these institutions.

Insofar as they pay attention to overall performance standards, the media tend to focus on rough impressions of productivity. Has Congress passed certain legislation? Are bills blocked for some reason or another? What is the level of partisan bickering or personal animosity? Do “turf wars” among federal agencies and their congressional overseers impede efficient operations? Editorials often target a “Do-Nothing Congress.” The 106th Congress (1999–2001) was branded as “Still a Do-Little Congress.”⁸ Its successor, the 107th Congress (2001–03), came in for similar criticism. Conceding the unique series of challenges—the terrorist attacks of September 2001, the anthrax scare, the proposed Department of Homeland Security, and a proposed war with Iraq—a Capitol Hill newspaper opined that this “does not excuse the monumental act of irresponsibility now being considered by Congress’ leaders: adjourning Congress and leaving vast quantities of public business simply unfinished.”⁹

Those who envision a more limited role for the government might question the bias in favor of activity or productivity. But, not at all surprisingly, curtailing governmental functions demands leadership that is at least as aggressive as that required to expand government; in other words, legislative and administrative oversight are essential in either case. Exploiting the commonplace bias toward legislative productivity in terms of, say, numbers of legislative bills passed or enacted, the newly empowered Republican leadership upped the ante in 1995 by adopting a “one-hundred-days” deadline for floor consideration of the Contract with America.¹⁰ Similar promises were made in 2002 after President George W. Bush sent to Capitol Hill his urgent but hastily conceived proposal for a new Department of Homeland Security.

In addition, academic students of government are alternative sources of insight concerning governmental performance; but they are not necessarily prepared or inclined to speak to the media and larger publics about the state of things in Washington. Liberal reformism was a strong component of the political science profession in its early years, when it was associated with progressive-era reforms and public administration’s “one best way” of organization and management. This reformist commitment has

faded with the rise of “scientific” research utilizing a wide variety of concepts and methodologies. It has been more than fifty years, for example, since the American Political Science Association took the initiative of issuing detailed reports and recommendations concerning party government and Congress, actions not likely to be repeated anytime soon.

Individual scholars have participated in evaluation and reform efforts in the recent past. One thinks, for example, of the several congressional reorganization panels of the 1970s, the National Commission on the Public Service (the Volcker Commission) in the late 1980s, the Clinton administration’s “Reinventing Government” initiatives of the 1990s, multiple studies of presidential transitions and the presidential appointment and confirmation processes, and evolving debates over campaign finance reform. Several contributors to this volume have participated in such efforts. Invariably such investigations produce much useful information and a valuable public record, but because there is rarely much follow-up, their products all too often leave historical benchmarks rather than a continuous stream of data. And what about the handful of relevant “public intellectuals,” usually scholars familiar with public sector operations and politics (whether the specialty is the presidency, Congress, the judiciary, or public management) who are intimately involved with the Washington community and who are skillful communicators to the press and the public? To be sure, these individuals sometimes address questions of institutional health; but far more often they are asked merely to comment on breaking news events or transitory phenomena.

To sum up, national government entities and their personnel have only weak incentives to concentrate on questions of the institutions’ health and performance, and even fewer incentives to communicate their judgments to clients or constituents. And if the government were to devote more systematic attention to its institutional health, its findings would in all probability be highly politicized and lack general credibility beyond the Beltway. Nor can we expect the usual sets of informational gatekeepers—journalists and scholars—to be able to fill the gap in public understanding, at least on a continuing basis.

Intellectual Challenges of Evaluations

Implementing periodic appraisals raises difficult questions of measuring institutional attributes and translating the findings into understandable rankings. This is a challenge whatever the subject of the study, whether it

be a school or a local government or the U.S. Congress. Fortunately for evaluative purposes, these are public bodies; they generate large numbers of identifiable and measurable products, and they have been studied systematically for many years. In thinking about how to establish periodic evaluations, therefore, we have sizable bodies of information to aid us.

One option, albeit controversial and perhaps extreme, lies in the burgeoning practice of organizational (or institutional) report cards. This device has been defined by William Gormley and David Weimer as: “a regular effort by an organization to collect data on two or more other organizations, transform the data into information relevant to gauging performance, and transmit the information to some audience external to the organizations themselves.”¹¹ Such evaluations, whether they take the form of report cards or follow some other format, are not self-generated but are compiled and transmitted by independent entities. Of necessity, however, they rely in part on information supplied by subjects of the evaluation. Second, many such evaluations translate the collected data into “grades” (ratings or rankings) that compare performance among organizations or in terms of a definable set of standards. Third, translating the data into simplified form enables external audiences (journalists, consumers, citizens) to interpret the findings and perhaps act upon them. Indeed, the mass media have been all too quick to see the advantages of such devices.¹²

Reporting and ranking mechanisms of this type are familiar, though not always beneficial, parts of our commercial and even political landscape. Comparative rating schemes have long been familiar in the commercial world, from the Good Housekeeping Seal of Approval to systematic product testing (Consumers Union) and product user surveys (J. D. Power and Associates). Policy analysts, industry analysts, and other users of large databases also find rating schemes useful. Newspapers and magazines increasingly produce report cards or quality ratings concerning various subjects. Professional groups adopt them in order to promote and regulate qualification and performance standards. Recently the concept has traveled to the realm of public or private social services such as schools, training facilities, physicians, hospitals, HMOs, and airline safety and performance. State and local governments are also subjects of various rating devices.

Our project authors reject simplistic formulas that rely on a limited range of measures upon which are hung a string of grades or scores. Such rating schemes are necessarily reductionist; that is, they are based on lim-

ited and usually readily quantifiable variables. Lists of the “best” colleges and universities, for instance, are faulted because they are weighted toward a small number of variables (for example, faculty salaries or class sizes) that may or may not be important to a particular student searching for a college. Subjecting governmental entities to periodic examinations therefore demands that the widest range of measures be employed: quantitative data, to be sure, but also qualitative information gleaned from, say, interviews, case studies, and judgments of informed observers.

At least two elements of reporting identified by Gormley and Weimer might serve as guidelines for evaluations of the type we envision. First, evaluations must be prepared independently of the institution being examined (however much these reports may draw upon information generated by that institution). Second, the evaluations—however complex and multifaceted they may be—must be reported in a form that can be conveyed succinctly and meaningfully to concerned publics: those within the institution itself, the institution’s clients, the press, and ultimately the general public.

In applying the concept of periodic evaluations to branches of the federal government, there arises also the question of comparability. The U.S. government is unique in many respects, even among nations that follow our constitutional model. The Senate and House of Representatives, by the same token, exhibit many prerogatives and practices that set them apart from, say, state assemblies or parliaments throughout the world. The comparability problems are far from unsolvable, however. Although the rankings themselves would apply solely to the given institution, instructive comparisons can be made both in gathering data and in translating those data into understandable packages. The same can be said of chief executives, bureaucracies, and national courts. First, in a number of specific respects U.S. governmental entities can fairly be compared with parallel entities in the states and in other nations. The U.S. Senate and House of Representatives, for example, share certain specific attributes with other legislative bodies such as state legislatures and representative assemblies in other nations. Second, longitudinal data offer opportunities to compare institutions over time, to identify and reflect upon organizational trends. Finally, the Workways of Governance Project envisions a set of roughly comparable, though certainly not identical, standards that might be applied to various government entities: the White House, presidential appointees, the civil service, and the courts, as well as the houses of Congress. However disparate their structures and constitutional man-

dates, these entities share attributes and capacities found in all formal organizations: for example, personnel; communications networks; output measures; and modes of identifying problems, processing information, and reaching decisions.

Another potential problem of such evaluations surrounds their expected effects upon the targeted institutions themselves as well as the affected publics. Evaluations, of course, are meant to affect the behavior of the institutions they evaluate, as well as the behavior of their relevant publics, be they clients, consumers, funding sources, or the general public. Even more problematic, targeted agencies may respond by devoting their resources to remedying the faults identified by the rating scheme, to the exclusion of other goals that may be in the institution's overall interest. To continue the educational analogy, administrators eager to polish a college or university's ranking oftentimes resort to hiring a string of "star" professors, a costly course of action that may have minimal classroom impact and unintended consequences, such as lowering the morale of existing faculty members. Our response to this problem is to propose a wide range of evaluative indicators—qualitative as well as quantitative—including time-line data that show trends as well as current performance. Such a multifaceted approach would minimize any distortions resulting from the findings.

Monitoring the Branches of Government

The scholar-analysts represented in this volume have attempted to apply these general guidelines to evaluations of the leading institutions of the federal government: the House of Representatives, the Senate, the presidency (focusing on White House organization and staffing), the executive branch (focusing on the civil service), and the federal judiciary. This ordering is not arbitrary; it follows the first three articles of the Constitution: Congress comes first, then the executive, and finally the judiciary. Naturally, it is also the scheme followed by the authors of *The Federalist*, still the most authoritative description of what the writers of the Constitution thought they had brought into being. (Their discussions of the executive branch, albeit relatively brief, were subsumed under the topic of the powers of the chief executive.) Unlike Madison, Hamilton, and Jay, we are trying to grasp the complexities of entities boasting more than two centuries of maturation and institutionalization. Therefore our examination of their workways brings us to strikingly different points of depar-

ture and sets of questions. Nonetheless, we hope our investigations reflect in some small degree the same qualities of high-mindedness and shrewd practicality displayed by the authors of *The Federalist*.

Evaluating the House of Representatives

There is of course no perfect or ideal legislative body. First, there is considerable disagreement over what constitutes a healthy legislature.¹³ Some, for example, might value a cautious and deliberate body, while others might prefer a chamber that moves expeditiously in the face of pressing demands and need. Second, not all the criteria we would expect of a healthy institution are necessarily compatible with one another. Can a legislature be both efficient and deliberative, or does securing one attribute harm the prospects of achieving the other? Third, even if we agreed upon the standards of a healthy body, devising objective criteria with which to gauge the institution would prove extremely difficult. What does a “representative” body look like? What is the mark of a “deliberative” or an “efficient” body? Numerous scholars and commentators have debated these points, and they have rarely reached common ground.¹⁴

Although such debates may seem arcane and academic to the policymaking community in Washington, we see a pressing need for a systematic evaluation of the House and Senate. Historically, there have been waves of concern about the House and its proceedings; and “congressional reform” has proved a salient topic for civic-minded critics and observers for at least several generations. What is needed is ongoing observation of the institution, one that begins not with reformist premises but with searching questions about institutional workways and how to judge their results.

In the early days, proceedings at the Capitol were relatively casual and often disorderly, especially in the House. As the institution matured, however, decorum by and large replaced chaos, and stricter rules of order came to govern the proceedings. Today the House is governed by a formidable array of rules and precedents, as well as numerous informal norms and traditions. Altering the proceedings is not a casual matter. (The Senate, as a continuing body, has rules that may be modified only by a two-thirds vote. However, the House, whose membership turns over every two years, adopts its rules anew when each new Congress convenes.)

Despite institutional inertia, the House and Senate have repeatedly adapted their ways of doing things, partly in reaction to altered partisan

or factional alignments, partly to accommodate shifts in membership. Most major changes in House rules and proceedings have resulted from concerted effort by the leadership, party caucuses, and the Rules Committee. When major rules changes or committee jurisdictional realignments are considered, select committees are often employed. Since World War II at least ten formal reorganization committees or study commissions have been created, the most recent in 1993.

Not all institutional changes have been visible to the general public. Incremental changes of one kind or another are common. For example, the House in 1999 streamlined and codified its rules, and hardly anyone noticed. Scholars have argued that periodic, large-scale “reform acts” aimed at revising committee jurisdictions and procedures are mainly compilations of gradually accumulated precedents created as new types of bills were introduced.¹⁵

Evaluating the Senate

The case of the Senate is even more urgent, if we are to heed the recent critiques of outside observers and even of senators themselves. In the 1990s and early 2000s, numerous senators—a distressing proportion of whom would be regarded as especially valuable members—departed the chamber expressing dissatisfaction and disappointment with their experience of serving in the body. As Warren Rudman asked upon leaving the Senate, “Why are outstanding people leaving who could serve in the Senate another decade or two? . . . Most [of the ones I’ve talked to] are leaving because the Senate has become so partisan, so frustrating, and so little fun.”¹⁶ Several senators have contemplated leaving the Senate to run for governor in their home states. Far from seeing state service as a lesser calling than national office, these seasoned legislators suggest that their ability to have a direct impact on social and economic lives would be far greater in the state capital. To be sure, many senators continue to serve with few misgivings about their experiences on Capitol Hill. But the fact that politicians inside and outside so often bemoan the nature of lawmaking in the Senate suggests that an investigation of the chamber’s workways is in order.

Despite the intricacies of constructing a checkup for the Senate, Workways author Sarah Binder boldly took up the task of attempting to devise such a test. In the process, she consulted broadly with former members, legislative scholars, and seasoned Hill staff.¹⁷ In some ways these consultations simply reinforced for us the difficulty of crafting a suitable

checkup for the Senate. Few believed, for example, that a single set of standards could be applied to the House and Senate, which have distinct constitutional duties and organizational attributes. But those we consulted did agree that what is ultimately important is the Senate's legislative performance. Did the Senate respond to pressing problems and do its part to provide policy solutions to the nation's major problems? Our consultations, in order words, hit home for us the importance of focusing on output: that is, how well the chamber responds to the issues of the day.

In devising a health checkup for the Senate, Binder focuses on the chamber's ability to set its agenda and move itself to make major policy decisions. For an ordinary legislature, we might think that this sets the bar too low. But the Senate, of course, is no ordinary legislative body, as reflected in the traditional senatorial belief that they are custodians of "the greatest deliberative body in the world." Cautious, deliberate—these are the words defenders of the institution employ to explain the Senate's slow-moving character. Given the Senate's appetite for lengthy debates and its rules that permit minorities to determine the pace of the body's deliberations, holding the Senate to a different standard of performance might place unfair expectations on it.

Thus instead of evaluating the Senate's speed or efficiency, we focus on the ways in which the Senate typically moves toward making decisions, and evaluate how well and how often the Senate completes these tasks of decisionmaking. How long does it take to negotiate time agreements under which the Senate will debate major bills? How many cloture motions are filed on major bills? What is the Senate's record in completing action on these major and salient measures? By surveying the decisionmaking landscape of the Senate, we hope to craft an institutional checkup that both appreciates the unique character of the Senate and holds the Senate up to reasonable yet ambitious standards of legislative capacity and effectiveness.

Evaluating the Presidency

As an individual, the U.S. president is undoubtedly the most conspicuous public official in the world. Nearly everyone knows the president's name; most U.S. citizens, and sizable numbers of people in other countries, can express judgments about his personality and performance. Indeed, since the late 1930s, popular rankings of presidential job performance have been the most frequently repeated items in public opinion surveys.¹⁸ Even some aspects of presidents' "workways," within the definition of this vol-

ume, are widely reported in the press: for example, their work habits, decisionmaking routines, travels, vacations, and personal styles.

The contemporary presidency, however, is far larger and more complex than the president's personal, visible image. Organizationally, the White House Office (WHO) and its larger entity, the Executive Office of the President (EOP), employ several thousand people (the exact number is questionable) and embrace complex organizational and personal relationships. To be sure, presidents are not elected for their skills at marshalling aides and leading organizations; but these skills, as often as not, determine the success of their presidencies. And it is very difficult for people outside the White House orbit—much less those far from the nation's capital—to grasp the complexity of presidential decisionmaking or to appreciate how the structure and operations of the White House staff can facilitate or constrain presidential performance. Yet White House management matters a great deal: close observers of the presidency point, for example, to the operational effectiveness achieved under such chiefs of staff as James Baker III and Howard Baker (during Ronald Reagan's presidency) and Leon Panetta (during Bill Clinton's presidency).

For much of the history of the presidency, staffing was a haphazard matter; assistance was gleaned from relatives or personal associates, who typically received very little compensation. The need for presidential assistance beyond such makeshift arrangements swelled to crisis proportions when the federal New Deal programs of the 1930s stretched executive capacities beyond their traditional boundaries. "The president needs help," declared the Brownlow Committee, created by Franklin D. Roosevelt after his first reelection. "His immediate staff is entirely inadequate."¹⁹ Among the group's recommendations implemented by Roosevelt was creation of the White House Office within a larger entity, the Executive Office of the President.

Since Roosevelt's time, the White House staff has grown in size and become more specialized. But when the presidency and its staff do receive attention, it is often only *after* serious problems have arisen in which the White House or the president is directly implicated (such as the Bay of Pigs and Cuban Missile Crisis in John F. Kennedy's administration; Watergate in Richard Nixon's; the Bert Lance controversy in Jimmy Carter's; the Iran-contra affair in Reagan's; and multiple controversies in Clinton's). The responses of outside critics, moreover, have frequently missed the mark.

President Dwight D. Eisenhower's national security decisionmaking system, for example, was faulted for being "too formal," leading to congress-

sional hearings and a major overhaul of the National Security Council system by Kennedy, his successor. Yet following the 1961 Bay of Pigs fiasco, Kennedy restored some of the old procedures. Later, presidential scholars would argue that Eisenhower's decisionmaking was actually enhanced by his reliance on both formal and informal structures and procedures.²⁰

The post-Watergate critique of the White House—that President Nixon had introduced a “swollen staff” that ran amok and isolated the president—generated an immediate effort by Gerald Ford and subsequent electoral promises to cut the size of the White House staff. However, efforts to address allegedly oversized staffs, although politically popular, produced some harmful (and often deceptive) staff “cuts” in the Ford, Carter, and Clinton presidencies, many of which were soon reversed.

“Since the Kennedy administration,” John P. Burke notes, “presidents have received, solicited and unsolicited, a range of advice on organizing their White House staffs.”²¹ Indeed, this has become a virtual cottage industry, producing a range of materials from distinguished scholars and practitioners.²² Despite all of these efforts, Burke finds scant evidence of either “an upward learning curve” in drawing on the institutional resources of the presidency or “as much stock-taking from the mistakes or difficulties (or, in some cases, successes) of predecessors as might make the task easier and more effective.”²³

The Workways project essay (chapter 4), written by Kathryn Dunn Tenpas and Karen Hult, highlights the importance of increased public access and ongoing systematic attention to presidential advisory systems. The focus is upon these systems' contributions both to advancing presidential objectives (“effectiveness”) and to addressing the concerns and requests of the president and other members of the Washington community (“responsiveness”). The authors note that the presidency differs in key respects from Congress and even the federal courts in providing public access to information and to decisionmakers themselves. The George W. Bush administration's habits of secrecy, not to mention the post-9/11 political environment as a whole, make this an even greater concern.

Evaluating the Federal Work Force

The federal bureaucracy, which lies largely within the executive branch, is given scant attention in the Constitution. As Leonard D. White recalls in his classic study of early executive operations:

The Constitutional Convention had displayed a notable lack of interest in the organization of the executive branch, apart from the office of the Chief Magistrate. It was assumed . . . that there would be departments to handle the foreign affairs of the country, the army, and the fiscal business. There was no debate concerning the number, powers, responsibility, or duties of the heads of departments. They were barely recognized in the Constitution in the phrase authorizing the president to secure their opinions in writing.²⁴

Nonetheless, a sizable federal establishment was surely envisioned as an essential ingredient of an “energetic” executive. The very first Congress (1789–91) began to shape the executive branch by passing laws establishing three executive departments and filling in details of the president’s supervisory authority. The puny executive force that President George Washington inherited from the existing apparatus under the Articles of Confederation soon began to expand, slowly at first, but more rapidly during times of war and crisis. The post–Civil War era brought broader governmental functions, which were augmented during the years of Woodrow Wilson’s New Freedom agenda, Franklin D. Roosevelt’s New Deal agencies and programs, and the Great Society legislation of the 1960s and 1970s. Before the outbreak of World War II, federal civilian employment stood at 699,000; by 1945 it had grown to 3.37 million—the highest level ever.²⁵

Growth is not limited to periods of expansive presidential and congressional policymaking. President Reagan, who pledged to eliminate two cabinet departments, failed to achieve that goal and ended up creating an additional department (Veterans Affairs). During his presidency the federal civilian payroll grew by more than 200,000 workers, most of them in defense-related agencies.²⁶ After the 2001 terrorist attacks, President George W. Bush acted to expand military capacity and proposed a new Department of Homeland Security of some 170,000 employees, not all of them transfers from existing agencies. In 2001, the most recent year for which we have data, the federal civilian workforce stood at 1.8 million.²⁷ To these figures should be added those working for government contractors or industries dependent upon federal largesse.

Historically, different philosophies have governed policymakers’ attitudes toward the nature and quality of the federal work force. The Federalists seemed to prefer an elite corps drawn from the ranks of “the rich and the wise and the well-born.” Thomas Jefferson and his followers placed

their confidence in a natural aristocracy of talent and skills. Andrew Jackson and his followers established what came to be known as the spoils system: awarding government jobs to party loyalists. Subsequent presidents spent many of their waking hours receiving and interviewing federal job seekers. The Pendleton Act of 1883—passed in part as a reaction to the assassination of President James Garfield by a disgruntled office seeker—established a graded civil service system of workers chosen for their skills and promoted according to performance.

Civil service standards spread throughout the government's agencies, producing a federal work force that was theoretically based on skills and not on political leanings. But presidents and political managers began to worry about their loss of leverage over the bureaucracy: How could federal agencies be made more responsive to presidentially directed policy shifts resulting in part from electoral results? How could policymakers motivate civil servants who enjoyed job security? Thus since the 1950s more attention has been paid to enlarging the cadres of political appointees and to permitting greater flexibility in dealing with top-level civil servants. For example, the critical issue surrounding George W. Bush's proposed Homeland Security Department was the president's insistence on flexibility to bypass traditional civil service rules in hiring/firing and promoting/demoting its employees.

The term "quiet crisis" has been employed to characterize the contemporary state of the federal work force. The term was originally coined by public administration scholars Roslyn Kleeman and Charles Levine to describe the slow weakening of the public service in the 1970s and 1980s.²⁸ Despite a comprehensive attempt to revitalize the service through the Civil Service Reform Act of 1978, the situation had deteriorated by 1987, when the National Commission on the Public Service was convened by its chair, former Federal Reserve Board head Paul Volcker. "This erosion has been gradual, almost imperceptible, year by year," the Volcker Commission concluded. "But it has occurred nonetheless."²⁹ Not since the rise of the spoils system in the Jacksonian era did civil servants have such good reason to feel beleaguered.

The Volcker Commission found that the federal work force suffered from neglect and disparagement. The public had lost confidence in their elected and appointed leaders, and no wonder: "bureaucrat bashing" by the media and political candidates was at an all-time high. Morale within the civil service was at a modern low. The gap between federal and private pay was widening, and the Office of Personnel Management (OPM)

was run by a director who believed that mediocre workers were good enough for government. Not that the nation's best and brightest young people ranked government service high on their list of career choices; even if they wanted a federal job, most had no idea how to get one. As the commission put it: "Too many of the best of the nation's senior executives are ready to leave government, and not enough of its most talented young people are willing to join. This erosion in the attractiveness at all levels, most specifically in the federal civil service—undermines the ability of government to respond effectively to the needs and the aspirations of the American people, and ultimately damages the democratic process itself."³⁰

Drawing on a host of data, both anecdotal and systematic, the Volcker Commission divided the quiet crisis into three components: erosion of public trust; recruitment of talented young people for public service careers; and barriers to high performance in government. In other words, improving the public service was seen as requiring a combination of better leadership, more internal capacity, and stronger incentives for performance. The federal government could not hope to regain public confidence without talented, ethical leadership, which in turn would lead to a work force staffed with America's best and brightest young people, who in turn would be given clear signals of the need for competitive performance.

To implement this model of public service, the Volcker Commission generated forty-four recommendations, roughly one-fourth of which were eventually adopted.³¹ On leadership, the commission urged a decentralization of government management, a one-third cut in the number of presidential appointees, and a renewed commitment to ethical conduct. On recruitment, it argued for national service, new outreach programs, and a simplification of the federal government's complicated personnel system. On performance, it recommended competitive pay in return for competitive performance alongside a strengthening of OPM and expanded training opportunities. It also recommended creating a pay comparability system linked to differences in local cost-of-living pressures.

The Volcker Commission's findings and recommendations established a benchmark for thinking about the workways of executive branch employees. Paul C. Light illuminates the current status of the federal work force in chapter 5 of this volume, primarily by means of recent survey data on federal employees. This descriptive material will lead to a more theoretical discussion of the positive conditions needed for public servants to fulfill their roles in what Alexander Hamilton termed "a government well executed."³²

From his investigations, Light is able to chart a course for periodic measurement of the health of the public service. But of all the unfulfilled recommendations of the Volcker Commission, undoubtedly the most important remains the one that appeared at the top of their list: presidents, their chief lieutenants, and Congress must articulate early and often the necessary and honorable role that public servants play in the democratic process, while at the same time making clear that they will demand the highest performance from those who hold the public trust.

Despite occasional progress in lifting the image of the public service, most notably in the “Reinventing Government” campaign led by Vice President Al Gore, the reality remains that government workers are an easy target of media and political attack. When in doubt, or so it seems, the easiest course for political candidates is to run against Washington and its “bureaucrats,” even if the candidate is an incumbent, and even if the incumbent is the occupant of the Oval Office. Tellingly, as Light reports, survey researchers have not yet found a survey question about trust in government that generates a positive response from the public.

Evaluating the Federal Judiciary

The federal judiciary, the subject of the third article of the U.S. Constitution, is created politically but must function independently. On the one hand, the federal judicial structure, only vaguely sketched by the Constitution, is largely a creature of laws passed by Congress. Moreover, federal judges are nominated by the president and approved by the Senate. On the other hand, members of the judiciary, once in office, are to proceed impartially and in a nonpartisan fashion; they enjoy life tenure and can be removed only by the cumbersome process of impeachment.³³

The task of judging requires both decisional and institutional autonomy. If justice is to be dispensed fairly, efficiently, and wisely, then judges must have (1) the time to devote to their responsibilities, both adjudicative and administrative; (2) the resources to discharge these responsibilities; and (3) the authority, within reasonable limits and with appropriate accountability, to manage their own affairs, free of the possibility of political retribution. Thus time, resources, and self-governance are critical elements of independent decisionmaking. They are also essential components of the optimal conditions for judging. To these, say the authors of chapter 6, must be added work that is both challenging and satisfying.

These authors, Federal Circuit Court judges Frank M. Coffin and Robert A. Katzmann, believe that a multifaceted inquiry can aid in gauging the conditions for effective judging and the health of the federal judiciary. Among the elements to be considered are: recruitment, compensation, workload volume and character, resources, time, resignations, working relationships, security, external institutional relations (Congress and the executive), public understanding, and media coverage. Some of these factors are more amenable to measurement than others. However, Judges Coffin and Katzmann believe that quantitative analysis is of only limited value for their purposes. Rather, they contend that periodic qualitative (but carefully crafted) inquiries, making use of quantitative data where appropriate, are more likely to bear fruit.

The periodic review, like the periodic physical examination, would involve several steps. First would be a deliberately unfocused questioning of a sample of judges. The respondents would be encouraged to discuss such matters as which portions of their work they found most and least rewarding or satisfying, how they spend their time, and what changes they think would improve the functioning of the judiciary.

The second step would require sifting these responses in order to create a more precise questionnaire. In such a survey judges could, for example, be asked to rank the severity of sources of frustration both within and outside the judiciary, to indicate their preferences for proposed improvements, and to offer their views about compensation and its effects on attracting able people to the bench and retaining them.

The third step would entail a series of focused discussions—perhaps as individual circuit conferences or workshops—based on the responses gleaned from the first two steps of the process. The objective would be to explore the types of improvements that might be made within and outside the judiciary. As a final step, specific innovations would be implemented insofar as they were possible or practicable.

As part of their inquiry, the authors undertook the first two steps of the evaluation process. Their survey of federal judges yielded a rich mine of data, reported in chapter 6. Regarding the link between compensation and recruitment/retention, the survey indicated that, if they knew that pay raises or regular cost-of-living increases were *not* forthcoming over the next ten years, more than six out of ten of the responding circuit and district judges would not have applied, or would have been less likely to apply, for their positions. As a way of showing the kind of practical steps that might be taken to alleviate the problems identified, Judges Coffin

and Katzmman focus on a principal dilemma of the task of judging: “too much work, not enough time.” They argue that the suggestion that judges “learn to work more efficiently” has the virtue of not requiring any ambitious institutional undertaking. In considering how to handle the workload with more modulated investments of time, the authors suggest that the most promising initial step would be to draw upon the reservoir of judicial self-help. They explore how the judiciary might institutionally facilitate a process whereby judges could pass on their experience and wisdom to other judges. The authors conclude that periodic checkups, self-examination, self-help, and sharing experiences would be at once preservative and renewing. They would help ensure the continuing vitality of the judiciary by equipping its human component, the individual judge, to live up to the challenge of enduring excellence.

Notes

1. Attention focused on the CIA, the FBI, and the military intelligence agencies, whose approach to antiterrorist activities was generally sluggish, stand-offish, and bureaucratically insular. No doubt their responses were mirrored by other agencies. The story is recounted in detail by Daniel Benjamin and Steven Simon in *The Age of Sacred Terror* (Random House, 2002).

2. David Johnson and James Risen, “Panel’s Findings Take Intelligence Officials by Surprise,” *New York Times*, September 29, 2002, p. 13.

3. See Joel D. Aberbach, *Keeping a Watchful Eye: The Politics of Congressional Oversight* (Brookings, 1990).

4. Glenn R. Parker and Roger H. Davidson, “Why Do Americans Love Their Congressmen So Much More than Their Congress?” *Legislative Studies Quarterly* 4 (February 1979), pp. 53–61.

5. Richard F. Fenno Jr., *Home Style: House Members in Their Districts* (Little, Brown, 1978), p. 168.

6. *Ibid.*, p. 246.

7. Stephen Hess, “The Decline and Fall of Congressional News,” in Thomas E. Mann and Norman J. Ornstein, eds., *Congress, The Press, and the Public* (American Enterprise Institute / Brookings, 1994), pp. 141–56.

8. “Still a Do-Little Congress,” Editorial, *Washington Post*, July 10, 2000, p. A10.

9. “Abdication,” *Roll Call*, September 23, 2002, p. 4.

10. James G. Gimpel, *Fulfilling the Contract: The First 100 Days* (Boston: Allyn & Bacon, 1996), p. 29.

11. William T. Gormley Jr. and David L. Weimer, *Organizational Report Cards* (Harvard University Press, 1999), p. 3.

12. *Ibid.*, p. 6.

13. Alan Rosenthal, "The Good Legislature: Getting beyond 'I Know It When I See It,'" *Legislative Studies Section Newsletter* (July 1998) ([www.apsanet.org %Elss/Newsletter/jul98/rosenthal.html](http://www.apsanet.org/%Elss/Newsletter/jul98/rosenthal.html)).

14. Malcolm Jewell, "Political Dimensions of a 'Good Legislature,'" in *ibid.*; Rosenthal, "The Good Legislature."

15. See David C. King, *Turf Wars: How Congressional Committees Claim Jurisdiction* (University of Chicago Press, 1997).

16. Warren B. Rudman, *Combat: Twelve Years in the U.S. Senate* (Random House, 1996), p. 254. See also John Rosenberg, "Why More Senators Are Eyeing Governor's Races," *The Hill*, October 31, 2001, p. 25.

17. See, for example, "Assessing Congress: Drafting an Institutional Report Card," workshop sponsored by the Governance Institute and the Woodrow Wilson International Center for Scholars (July 24, 2000), conference transcript.

18. For a scholarly compilation and analysis, see Paul Brace and Barbara Hinckley, *Follow the Leader* (Basic Books, 1992).

19. President's Committee on Administrative Management, *Administrative Management in the United States* (Government Printing Office, 1937), p. 3.

20. Fred I. Greenstein, *The Hidden-Hand Presidency: Eisenhower as Leader* (Basic Books, 1982); and John P. Burke and Fred I. Greenstein, with the collaboration of Larry Berman and Richard Immerman, *How Presidents Test Reality: Decisions on Vietnam, 1954 and 1965* (Russell Sage Foundation, 1989).

21. John P. Burke, *The Institutional Presidency: Organizing and Managing the White House from FDR to Clinton* (Johns Hopkins University Press, 2000), p. 24.

22. Richard Neustadt's memorandums to Kennedy before he took office survive as a model of the genre. See, for example, Stephen Hess, "Advice for a President-Elect, 1976–77," in Hess's *Organizing the Presidency*, 2d ed. (Brookings, 1988); Benjamin W. Heineman and Curtis Hessler, *Memorandum for the President: A Strategic Approach to Domestic Affairs in the 1980s* (Random House, 1980); National Academy of Public Administration, *A Presidency for the 1980s* (NAPA, 1980). In 2000 there were several major reports by, among others, the Brookings Institution, the American Enterprise Institute, the Center for the Study of the Presidency, and the Heritage Foundation.

23. Burke, *The Institutional Presidency*, p. xiii.

24. Leonard D. White, *The Federalists: A Study in Administrative History* (Macmillan, 1948), p. 26.

25. *Budget of the United States Government—Historical Tables* (Government Printing Office, 2002), pp. 298–99.

26. U.S. Bureau of the Census, *Statistical Abstract of the U.S., 2001* (Government Printing Office, 2001), table 483, p. 320.

27. *Budget—Historical Tables*, p. 299.

28. Charles H. Levine and Roslyn S. Kleeman, "The Quiet Crisis in the American Public Service," reprinted in Patricia W. Ingraham and Donald F. Kettl, *Agenda for Excellence: Public Service in America* (Chatham House, 1990), p. 3.

29. National Commission on the Public Service, *Leadership for America: Rebuilding the Public Service* (1989), p. 3.

30. *Leadership for America*, p. 1.

31. See Paul C. Light, *The Tides of Reform: Making Government Work, 1945–1995* (Yale University Press, 1997), for a discussion of the relative success of past improvement efforts.

32. Alexander Hamilton, *Federalist* No. 70, in Hamilton, James Madison, and John Jay, *The Federalist Papers* (Mentor ed., 1961), p. 423.

33. Although impeachment may be frequently threatened, it is rarely employed. Of the fifteen Senate trials (most recently that of President Clinton in 1998), only seven individuals have been convicted and removed from office. Interestingly, all seven who were removed from office were judges, who otherwise enjoy open-ended terms of office.