

Deconstructing the Administrative State¹

SPSA Presidential Address

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In a February 2017 appearance before the Conservative Political Action Conference, White House Advisor Stephen K. Bannon described three broad agenda areas for the new administration -- national security, what Bannon referred to as “economic nationalism,” and the deconstruction of the administrative state. It was Bannon’s third bucket of policies that garnered the loudest applause.² The Trump strategist tapped in to longstanding conservative unease with bureaucratic regulations and enforcement actions (Reuter and Yoo 2016; Teles 2008). Bannon hinted at a broad administration strategy to limit the power of federal departments and agencies, sometimes through targeted executive actions and at other times through managerial neglect.

Ironically, at the same time the president was trumpeting the need for new investment in America’s roads, bridges, and levees, his top policy advisor was proposing to tear down the already neglected infrastructure of government.³ Conflating the departments and agencies of government with the policies they pursue, the new Trump Administration sought to limit bureaucratic activity by unraveling the machinery of government. Believing the permanent government was part of the swamp and filled with “deep state” resistance, the president proposed a series of policies targeting the agencies, people, and policies of government with the aim of disabling them from pursuing ends the president did not prefer.

While a number of authors have carefully documented the president’s approach to management, few have successfully connected the president’s actions to those of previous presidents and congresses (see, e.g., Lewis 2018; Miller 2018; Woodward 2018). The infrastructure of

² See, for example, Jon Michaels, “How Trump is dismantling a pillar of the American state,” *The Guardian*, November 7, 2017 (<https://www.theguardian.com/commentisfree/2017/nov/07/donald-trump-dismantling-american-administrative-state>, accessed December 29, 2018); David French, “Trump Wants to Deconstruct the Regulatory State? Good. Here’s How You Start,” *National Review*, February 24, 2017 (<https://www.nationalreview.com/2017/02/administrative-state-deconstruction-trump-steve-bannon-cpac/>, accessed January 4, 2019).

³ I borrow this analogy from Verkuil (2017). For details of the President’s February appeals for investment in infrastructure see Dan Merica, “Trump: I will ask Congress for a \$1 trillion infrastructure bill,” *CNN*, February 28, 2017 (<https://www.cnn.com/2017/02/28/politics/trump-infrastructure-trillion-congress/index.html>, accessed January 5, 2019).

governance, like the nation's physical infrastructure, has been neglected for some time, partly because there are few electoral incentives for its maintenance and partly because Republicans and Democrats no longer agree on its importance. Careful observers inside and outside of government have been raising the alarm about the decaying infrastructure of government for some time (see, e.g., DiIulio 2014; Fukuyama 2014; Light 2008; National Commission on the Public Service 1989, 2003; Verkuil 2017).

Those raising the alarm have often pointed to ideological explanations for the current condition of the administrative state, neglecting longer term electoral incentives and political developments. While Republicans have long favored a smaller national government and a shortened reach of government programs and regulation, both parties embraced a loose package of management ideas starting in the 1980s and continuing into the new century that emphasized better outputs at lower cost. The so-called New Public Management emphasized a customer-focus, decentralization, market competition, cost controls, performance measurement and private sector management techniques (Hood 1991; Gore 1993). This package of ideas was attractive because it was consistent with the belief that bureaucracy was bloated, inefficient, and needed to be controlled. It provided a mechanism for slashing administrative costs while protecting programmatic spending. These anti-bureaucracy ideologies are an important part of the modern history of the administrative state but they operate in a larger political system defined by strong institutional incentives and longer term political dynamics (e.g., polarization, insecure majorities) that contribute independently to an ongoing deconstruction of the administrative state.

The consequences for failed bureaucratic infrastructure can be severe. Everything the departments and agencies of government do legally is in some way connected to directions from Congress. Those programs are at risk and all segments of society are potentially implicated in that failure. Veterans may die waiting for health care. Poor kids will not be enrolled in programs that

keep them fed and teach them to read. People on terrorist watch lists may be allowed to fly to the United States and eligible visitors unfairly kept out. Federal employees will waste hundreds of millions of dollars on poorly managed procurement processes. The government will not stop a dangerous pandemic before it spreads to millions (Sun 2017).

An overlooked risk is that government will miss opportunities that are hard to imagine in the current moment. Federal employees sent people into space and invented the internet (Lewis 2018). One quarter of U.S. Nobel Prize winners are federal employees (Partnership for Public Service 2002). It is difficult to quantify the impact of something like the internet or the research of these prize winners on the economy and public life. What internet equivalent might we forgo through neglect of the bureaucracy (Lewis 2018)?

In this talk I would like to put the current president's efforts to, in Bannon's words, "deconstruct" the administrative state – i.e., the agencies, people and processes of the executive establishment -- into context. I begin by explaining why Congress and the president rarely have incentives to tend to the care and feeding of the departments and agencies of government, particularly the parts that provide few direct benefits to key electoral interests. The next section describes the health of the administrative state prior to Trump's presidency to illustrate the cumulative effect of these incentives. The data in this section reveal several potentially worrying aspects the administrative state prior to the Trump Administration. With that, I review the Trump Administration's efforts to deconstruct the administrative state. I illustrate how his approach is consistent with the actions of previous presidents and where he departs, notably positioning himself as president but not chief executive. I conclude with some implications for the quality of governance in the United States and some modest proposals for reform.

Institutional Incentives and the Infrastructure of Government

Given the importance of the administrative state, it is worth asking why elected officials are not more attentive to its health. This section addresses this question, focusing first on Congress and then turning to the executive. I begin with a few simple assumptions about what motivates elected officials and work from these assumptions to the choices Congress and the president make about how to approach the administrative state. I then draw out the implications of their choices for the health of the bureaucracy.

Congressional Incentives and the Infrastructure of Government

A reasonable approximation of congressional behavior is that members of Congress are single-minded seekers of reelection and they pursue activities for which voters will give them individual credit in their district or state (Mayhew 1974).⁴ This suggests that members have incentives to take symbolic actions consistent with the opinion in their district. The specific content of their symbolic actions -- position taking, credit-claiming, and advertising -- is informed by their constituency's own view of the administrative state (i.e., agencies, workers, policies, practices).⁵ The public does not know much about the federal bureaucracy and the public's views are shaped importantly by public reporting on the bureaucracy, which is largely negative (Goodsell 2015; Yackee and Lowery 2005).⁶ The posture of members reflects the public's attitude toward the bureaucracy. Members try to secure support in their districts or states by agreeing with negative

⁴ This can be direct credit for actions voters observe or indirect credit with voters taking cues from influential individuals or groups that signal their support for the member. Of course, if members prioritize other non-electoral goals, they may engage more in oversight (Evans 1994; Hall 1987).

⁵ The implication here is that changing public attitudes toward administrative agencies should influence congressional attitudes. It should be noted the relevant electoral interests are the opinions of those that are key for them to get support in the district. This can be voters directly or key elites that influence votes or elections in the district.

⁶ See also Lisa Rein and Ed O'Keefe, "New Post poll finds negativity toward federal workers," *Washington Post*, October 18, 2010 (<http://www.washingtonpost.com/wp-dyn/content/article/2010/10/17/AR2010101703866.html> , accessed January 8, 2019). The public's views of the bureaucracy are nuanced, however. Their views of specific agencies can be positive even if their general perceptions of the executive bureaucracy are quite negative (Goodsell 1994; Verkuil 2017).

stereotypes, supporting punitive legislation, taking credit for identifying faults, and proposing solutions to problems (thereby highlighting the problems; Fiorina 1977).

Members' propensity to engage in substantive actions related to the performance of the administrative state is also influenced by their district's views on the administrative state, including whether oversight is a relative priority, whether the bureaucracy works well or poorly, and the posture Congress should take toward performance. Do voters care about the bureaucracy? Do they perceive the bureaucracy as working well or poorly? What kinds of actions do voters want to see in response to performance? These kinds of attitudes shape the behavior of members.

Members use their role overseeing agencies to secure discrete benefits for key electoral interests (see, e.g., Arnold 1979; Bickers and Stein 1996; Ferejohn 1974).⁷ This includes intervening in cases where individuals or groups have problems with a bureaucracy and working with agencies to deliver federal benefits to their districts and states (Cain, Ferejohn, and Fiorina 1987; Grimmer et al. 2012). Legislators also benefit from publicly investigating poor bureaucratic performance and suggesting fixes (Fiorina 1977). Bringing problems to the attention of the public and proposing solutions is one way that members get individualized credit with attentive groups and voters. Important oversight work for which members do not get clear credit is less attractive to members relative to other activities.

More generally, the reelection incentives of members shape their approach to oversight in four key ways. First, members often neglect oversight relative to other activities, particularly oversight that has no direct connection to electorally relevant groups (Ogul 1976; Scher 1963; see, however, Evans 1994). Members have a finite amount of time to allocate and do so in ways that maximize their reelection chances (Aberbach 1990; Hall 1987; Ogul 1976; Scher 1963). Agency

⁷ These electoral interests can be important interest groups that care intensely about agency outputs (McKay and Yackee 2007; Yackee and Yackee 2006).

oversight is costly and, with some notable exceptions, unimportant and obscure to voters. This is especially true if oversight produces no tangible member-specific work product. It is time and resource-intensive for members to learn about different agencies, understand their programs and budgets, and keep track year-to-year of how they are doing. All the time a member spends working on the care and feeding of the administrative state, they take away from other activities such as lawmaking or traveling to their district or raising money for the party.⁸

Second, and, arguably most importantly, congressional oversight is largely negative and reactive rather than positive and proactive. Scholars of congressional politics describe oversight in the language of police patrols or fire alarms (Aberbach 1990; McCubbins and Schwartz 1984). Members of Congress either walk the beat looking for wrongdoing or wait for an interest group to pull a fire alarm and thus notify Congress of a problem in an agency. These may be apt metaphors for oversight but it is worth noting that each metaphor suggests that congressional committees focus on what goes *wrong*, namely a crime or a fire. Successful management of the administrative state also requires catching people doing right and encouraging organizations to do more than simply avoid a visible failure.

Effective oversight involves looking forward as well as backward (Kamarck 2016). It requires important and largely invisible attention to budgets, personnel, and processes. It requires members to engage in careful long term planning to make sure that problems do not emerge as well as to seize new opportunities. Unfortunately for the administrative state, members rarely get credit outside the chamber for doing the diligent day-to-day work of management. Legislators do not get credit for preventing problems that do not emerge or laying a course for successful agency

⁸ The behavior of members reflects that it is hard for voters to see the benefits of effective governance, particularly in the future but easier for them to see tax increases.

performance whose results will not be realized until 4-6 years in the future (Healy and Malhotra 2009). Successful agency management does not produce a press release.

Third, legislative oversight tends to be particularistic, focused around specific agencies or programs. Members have an interest in specific issues, programs or agencies under the jurisdiction of committees where they serve. The topics they monitor--agencies implement scores of agency-specific and cross-agency policies--are topics important to key interests. There are few members who see it in their interest to focus on *management* as opposed to programs or policies and even fewer who focus on management issues across the whole of government. All members would benefit from an effectively managed executive establishment and a highly skilled federal workforce but few have incentives to allocate time and effort toward those goals. Even members that represent districts with large numbers of federal employees tend to focus on workforce issues like compensation or telework rather than management performance.⁹ Members that serve on the House Oversight and Government Reform or Senate Homeland Security and Government Affairs or Appropriations committees are often an exception but they can fall prey to same incentives that plague other members to be reactive rather than proactive and avoid topics that do not provide them individual election-relevant credit.¹⁰

Of course, chairs and ranking members of committees may be better able to credibly claim credit for agency outputs but their transience illustrates a final notable feature of congressional oversight (Evans 1994). The short time horizons of elected officials shape legislative oversight activities. All members make decisions with an eye toward elections every two or six years. The volatility of congressional elections has also increased, meaning that even secure members face

⁹ Working for performance and accountability can be divisive since most federal employees perceive themselves as working hard. Such endeavors also divide managers and workers with managers more likely to support more power to hold workers accountable. Both sets of federal employees are constituents.

¹⁰ Historically, they have sometimes been reluctant to take on large scale issues because it treads on the turf of other committees (Dodd and Schott 1979).

insecure majorities and therefore insecure committee influence (Lee 2016; Ogul 1976).¹¹ Insecure majorities can also empower parties relative to the committees, decreasing the autonomy, bipartisanship, and agenda setting power of committees (Ogul 1976). In addition, the Republican caucus has imposed term limits on committee chairs, limiting service to 6 years in periods when that party controls the majority in the House.¹² This forces members concerned about producing tangible benefits from oversight to focus on activities that produce results before the next election or the end of their terms. It is harder to take on long term reform proposals or persist in working to solve longstanding problems. As time horizons get shorter, attention long term planning and future benefits declines.

When Does Congress Pay Attention?

Concerns about a lack of effective management and oversight of the bureaucracy extend well back into the 20th Century (Ogul 1976). Indeed, Congress has been more or less attentive to the management of the bureaucracy at different points in its history. Why? The simple answer is that their electoral incentives and ability to act on their incentives have varied over time. During some periods of American history, influential groups pressured Congress to do more to improve performance. For example, Congress passed the Pendleton Act in 1883 to create the civil service system in response to pressure from a coalition of business, clerical, and good government groups (Fukuyama 2014; Skowronek 1982; Theriault 2003). Civil service reform league chapters had sprouted up across the country to help persuade Congress and state and local governments that civil service reform was necessary. Interests organized around specific programs and agencies still work

¹¹ Whereas the Democrats controlled both chambers almost uninterrupted (save 1947-8, 1953-4) between 1933 and 1980, the Senate majority changed hands 7 times between 1980 and 2016, the House majority 3 times (Lee 2016, 1).

¹² The rotation of committee chairs also systematically reduces the subject area expertise of committee chairs, making effective oversight more difficult.

to influence Congress to provide effective delivery of benefits to those groups. Yet, an equal and perhaps growing number of groups exist that prefer that the administrative state, particularly regulatory agencies, do less. To the extent that private interests pressure members to deconstruct the administrative state, limit and reverse rulemaking and enforcement, members will reflect these interests.

Apart from private pressure, the example of the Pendleton Act suggests that the public also sometimes pressures Congress to be attentive to performance, if not hard-to-observe long term health.¹³ While management is rarely among the most important problems that voters identify, government performance sometimes pushes its way into the minds of voters, usually with the help of external events or other political actors like presidents. The 9/11 terrorist attacks in the United States, for example, created the momentum for a dramatic reorganization of the federal bureaucracy.¹⁴ Presidentially driven concerns about public performance have periodically led to the creation of national commissions to study federal management, including the Brownlow Committee in the aftermath of the 1936 election, two commissions headed by former President Hoover, and the Ash Council under President Nixon (Arnold 1998; Tama 2011).

Members also have stronger or weaker incentives to be attentive to management depending upon whether the program or agency provides specific benefits to electorally relevant groups (Scher 1963). When members receive numerous contacts about specific problems or programs, this can serve as a fire alarm, signaling to members to pay closer attention. When member committee

¹³ The public's views of government agencies have not always been negative and even today can be quite positive if framed the right way. See Megan Brenan, "Republicans Push Government Agency Ratings Up, but Not FBI," *Gallup*, January 2, 2018 (<https://news.gallup.com/poll/224804/republicans-push-government-agency-ratings-not-fbi.aspx>, accessed January 5, 2019). Yet, public trust in bureaucracy has declined over time just as it has for other parts of government and other institutions (see, e.g., Hetherington 2006). This change in public trust in government has been reflected in the behavior of members and an improvement in attitudes toward government would be reflected in the behavior of members as well.

¹⁴ Congress merged twenty-two separate agencies into a new executive department. National Commission on Terrorist Attacks Upon the United States. 2004. *9/11 Commission Report: Final Report* (<https://www.9-11commission.gov/report/911Report.pdf>, accessed January 7, 2019).

assignments overlap with electorally relevant groups and district interests, members have stronger incentives to attend to the effective delivery of key benefits. Of course, ensuring the delivery of benefits is not necessarily good management (Savage 2009). In addition, not all agencies provide clear benefits to districts or states. All agencies do, however, perform activities whose outputs are hard to observe and provide only indirect and largely invisible benefits to voters. This includes management activities such as procurement and workforce management but also public policies like providing clean air, consumer protection, and effective foreign policy. When agencies provide particularistic benefits that might have electoral consequences, members have a stronger incentive to ensure their continued delivery (Canes-Wrone et al. 2008; Fowler 2015). They are less concerned with important subjects that lack a direct connection specific benefits. Indeed, members often work against the effective performance of agencies whose actions hurt key organized or district interests.

Of course, reelection incentives are more binding on some members than others (Evans 1994). Some members have longer time horizons than others because of electoral security and stable majorities. Members have been more actively involved in congressional oversight during periods of large and stable majorities (Aberbach 1990; R Street Institute 2016). Long service allows members to gain expertise and provides them and their staff opportunities to develop long term relationships with agencies. During the middle of the 20th Century, for example, members that were part of secure Democratic majorities served as chairs of committees and subcommittees for long periods. Congress expanded committee staff and augmented congressional support agencies. This facilitated attention to the management of agencies under those jurisdictions.

Even if members have incentives to be attentive to the health of the administrative state, this does not mean they have the *ability* to act on those incentives. In some cases, members lack the expertise and in others the cooperation necessary to direct the executive establishment. Since the late 1970s, committee staffs and congressional support agencies have been cut (Mills and Selin 2017).

For example, standing committees in House have about one half as many staff members as in 1980 and the Government Accountability Office and Congressional Research Service operate with 20 percent fewer full time employees (Drutman and Teles 2015; R Street Institute 2016). Members have not been able to agree to strengthen their own branch across party lines. Virtually all of the major efforts to improve congressional management of the administrative state during the 20th Century were bipartisan affairs (Bolton and Thrower 2018). Today, while all members would benefit from a nimble bureaucracy and effective management, individual members often have stronger electoral incentives to oppose efforts to accomplish these goals. Members of Congress from the president's party do not want to want to empower Congress and members from the opposition party do not want to reform the executive in a way that provides aid or credit to the president. Indeed the content and robustness of oversight are importantly influenced by party dynamics, with congressional majorities conducting more aggressive oversight during divided government (see, e.g., Kriner and Schwartz 2008; McGrath 2013; Parker and Dull 2009).

Presidential Incentives and the Infrastructure of Government

For presidents, a reasonable approximation of their behavior is that they actively seek reelection in their first terms and behave as if they are seeking reelection in their second terms (Kriner and Reeves 2015). In contrast to members of Congress, however, a national constituency selects the president rather than a specific district or state and this influences the president's approach to governance (Moe 1989; Neustadt 1960; see, however, Hudak 2014, Kriner and Reeves 2015). Presidents also have short time horizons defined by a constitutional limit of two terms. In allocating their time and effort, presidents must decide how much attention to give to the infrastructure of government they inherited.

Presidents have a harder time than Congress ignoring the bureaucracy. Indeed, by virtue of the president's role as chief executive and their role (along with the vice president) as the only nationally elected political official, voters often ascribe to the president credit or blame for overall national issues, including foreign policy, the state of the economy, and the character of public life (Neustadt 1960; Lowi 1985; Waterman et al. 2014). This is true even though presidents share responsibility for governance with Congress, the courts, and other actors they elected officials have empowered (e.g., the Federal Reserve). Presidents are particularly connected with the performance of the executive establishment because of their visibility and titular role as head of the executive branch.

The administrative state is also important to presidents because of its policy making role. Congress (with the assent of presidents) has delegated significant policy making authority to the departments and agencies of government. The volume and complexity of government work has made it difficult for Congress to be expert enough or have enough time to write specific policies into law across the many domains of government work (Epstein and O'Halloran 1999; Huber and Shipan 2002; McCann 2018). Instead, Congress has set general guidelines in law and empowered bureaucratic experts to implement, interpret, and prescribe policy consistent with the law.¹⁵ The outputs that emerge from government agencies are invariably connected to the president. Key national interests are attentive to bureaucratic policy processes and make electoral issues out of administrative decisions like the Keystone Pipeline or national fuel standards. In addition, when presidents make promises during the campaign, their fulfillment often comes in the form of administrative action. This raises the stakes for control and management of government agencies and Congress and the president compete for influence.

¹⁵ Congressional drafters are also not particularly careful or consistent in how they writes statutes, creating difficulties for even the best intentioned agencies and courts (Gluck and Bressman 2013).

The problem for presidents is that the national bureaucracy is impossibly big and complicated. There is no way any manager could ensure that all of its components are responsive and working well. The federal government employs more than 2.7 million civilians and spends more than \$4 trillion annually. These persons and funds are spread across 250 to 300 diverse organizations. Some agencies ensure fair housing and employment. Others land planes or regulate polluters. The largest agencies provide veterans services and national defense. Many federal agencies are performing well and can be more or less be left alone. Others are performing poorly and need to be managed carefully. The difficulty is figuring out which is which. Virtually all presidents experience crises when some part of the immense bureaucracy fails. The actions of President Obama's Department of Veterans Affairs and President Bush's Federal Emergency Management Agency will forever be connected to those presidents. These bureaucratic failures can derail presidential work in other arenas and have lasting electoral consequences. They are also hard to anticipate in such a large and complex set of organizations.

The media also write systematically more stories about government failures of all sizes rather than successes (Cohen 2008; Groeling and Kernell 1998). As a thought experiment, imagine if the *Washington Post*, Fox News, or the *New York Times* was filled with stories with the following headlines:

- "DOT policies lead to reduction in traffic fatalities"
- "Millions of Social Security checks arrive in mailboxes of needy seniors without incident"
- "Government agencies keep America's food supply clean and safe yet again"
- "Federal government ensures that the nation's ports safe and secure for years running"

Of course, actual news outlets rarely carry such stories. The news about the executive branch is relentlessly negative and presidents are connected to the executive branch in the minds of voters. Modern presidents, then, confront a persistent problem of how to deal with negative stories that

seem a natural part of an organization as large as the federal government. To get reelected, presidents need to be responsive to the views of voters and key interests about the administrative state and somehow deal with the flow of bad news.

Presidents have adopted four distinct but not mutually exclusive strategies in response to the president's need to control the administrative state and address the inevitable bad news that flows naturally from the bureaucracy. The most common response to the president's need to control administrative policymaking and the flow of potential bad news is to *politicize* (Golden 2000; Ingraham et al. 1995; Michaels 1997; Moe 1985). Modern presidents have consolidated control over personnel selection in the White House (Thompson and Brown 1997; Weko 1995). They have increased staff and resources allocated to personnel selection in the hopes of identifying administration officials that will be both loyal to the president and competent to manage the bureaucracy (Pfiffner 1996; Weko 1995). If presidents are to be held accountable for the performance of the bureaucracy, they would like to have it staffed with persons of their own choosing.

Presidents have at times or in some areas sought to *centralize* control of agency decisions in the White House or Executive Office of the President (Moe 1985; Warshaw 1995).¹⁶ Presidents have, for example, required that all major regulations be reviewed by the Office of Management and Budget (Tomkin 1998). Presidents have also built up staff offices to help them direct agency activities, including the Domestic Policy Council and National Economic Council (Burke 1992; Warshaw 1995). They have designated White House czars to superintend policy areas that span multiple agencies (Vaughn and Villalobos 2015). Concerned about what agencies will do without

¹⁶ For details about the development, organization, and differences in the way the White House Office has been organized and used by presidents to facilitate this centralization see Walcott and Hult 1995 and Hult and Walcott 2004.

direct supervision, presidents have sought to centralize control and actively monitor agency activities.

A different response to inevitable problems that reside in the bureaucracy is to propose a management or *reform* plan of some type. These can be largely symbolic or they can be more substantive and they come in different forms (Arnold 1998). Some presidents have publicized management agendas and others have made requests for reorganization authority. Some presidential governance agendas can be accomplished through administrative changes and others require legislation. Management or reform plans are a useful response to problems in the bureaucracy since presidents can use evidence of poor performance in their own administrations to justify reform efforts. Presidents can agree with critics and suggest that such criticisms are precisely why the president has proposed a reform plan. Yet, even successful reform is unlikely to fully inoculate the president from bad stories emerging from the departments and agencies of government, particularly as time goes on.

Finally, presidents can try and symbolically *disassociate* themselves from the problems in the executive establishment. At various points presidents have sought to position themselves as disconnected from the existing bureaucracy. Ronald Reagan famously stated, “Government is not the solution to our problem; government is the problem.” During his presidency, Reagan sought to remove civil service protections, limit the power of government unions, reduce the size of the federal workforce, and cut agency budgets.¹⁷ These efforts can be useful in rallying support for his presidency but this strategy entails substantial political risks. A strategy of disassociation is difficult to sustain because presidents like to take credit for things that go well and all presidents need parts of the executive establishment to work effectively. Even the most anti-state presidents want a

¹⁷ Stephen Barr, “Civil Service Will Remember Reagan as the Anti-Government President.” *Washington Post*, June 8, 2004 (<http://www.washingtonpost.com/wp-dyn/articles/A23306-2004Jun7.html>, accessed December 6, 2018).

competent bureaucracy to do some things, whether it is roll back regulations or provide a robust national defense.

Presidents have an incentive to look holistically at the administrative state and have responded symbolically and substantively to their incentives to manage bureaucratic outputs, including news, and policies through a variety of strategies. Yet, election incentives often lead presidents to adopt day-to-day strategies that work against their own reform efforts and the long-term health of the administrative state. Presidential efforts to politicize in order to get control of the policy and management of the administrative state can harm the bureaucracy through the selection of unqualified agency leaders and the management inconstancy that characterizes the current appointee system (Goldenberg 1984; Krause and O'Connell 2016; Lewis 2008). Appointed executive branch officials traditionally focus on accomplishing 2 or 3 agenda items during their tenure and these priorities rarely include the long term health or management of the agency itself or its workforce (e.g., outdated IT system, removing poor performers, clear standards for performance reviews, updating outdated procedures). If appointees *do* prefer to spend their time on long term planning, short tenures constrain their efforts since they cannot oversee the implementation of reforms they have initiated. Career professionals inside agencies must adjust their priorities every time a new appointee starts and whether new appointees will embrace existing plans and reform efforts is uncertain. This makes career officials naturally cautious when it comes to implementing a new appointee's initiatives or working hard to propose their own.

Presidential centralization can have similar effects. If agency officials believe that all important decisions are made by White House aides, they have fewer incentives to work in government or do the hard work they would do if their choices were decisive (Gailmard and Patty 2013; Richardson 2018). Recruitment and retention of excellent appointees is difficult when

potential appointees believe they will have little direct influence over policy choices or will be regularly overruled by the White House (Bolton et al. 2018; Perry and Wise 1990).

Presidential reform efforts, if symbolic or overly doctrinaire, can often be counterproductive (Light 1997) and if presidents try and disassociate themselves from the bureaucracy or actively denigrate the work of government for electoral gain, this has predictable effects on the health of the departments and agencies of government. Presidentially-directed management or reform efforts *can* be quite important to the health of the administrative state, including the symbolic acts of calling people to public service or communicating their important and noble mission. Presidents have directed some of the most consequential administrative reform efforts of the last century, including the President's Committee on Administrative Management (i.e., the Brownlow Committee) and legislation including the Civil Service Reform Act of 1978. Yet, while most modern presidents have adopted a management agenda or a reform initiative, few have made government performance a priority. Presidential attention to management initiatives must overcome a lack of public interest in governance and compete with other presidential priorities more salient to voters. Effective reform also requires the cooperation of Congress and this has been harder to secure as the parties have polarized.

Summary

The natural election seeking incentives of members of Congress and the president, coupled with long term developments in public opinion, electoral competitiveness, and party polarization have influenced the current condition of the administrative state. The result of Congress members' focus on reelection is that they often neglect oversight, particularly oversight that is proactive, holistic, and based upon long-term planning. Apathy among members about some government activities and hostility toward others has clear consequences for agencies. Some aspects of the

administrative state are more or less neglected and others such as the appointments process are caught in the middle of regular political fights (McCarty and Razaghian 1999). This makes it difficult for managers to secure the necessary resources and political support to effectively implement federal programs and serve the public.

Like members of Congress, presidents get little credit for a functioning bureaucracy and much of the blame for one that is dysfunctional. They have short time horizons and make decisions about the administrative state in the context of other policy priorities. Some aspects of regular presidential efforts to control the flow of bad news and administrative policy outputs are corrosive for management and public disinterest and difficult partisan and inter-branch dynamics make more positive and proactive efforts to attend to the infrastructure of government risky and difficult. The result is an administrative state that is increasingly fragmented, under stress, and plagued by weak leadership.

Evidence of Deconstruction Prior to Trump

The forgoing description of the decision making calculus of elected officials suggests that problems with the health of the administrative state should be apparent before the Trump Administration articulated its goal of deconstruction. In this section I expand on this discussion by evaluating some key features of the administrative state prior to Trump's inauguration. What the data reveal is that the cumulative effect of actions by previous presidents and Congresses had left the infrastructure of government vulnerable and under stress, although some parts more than others.

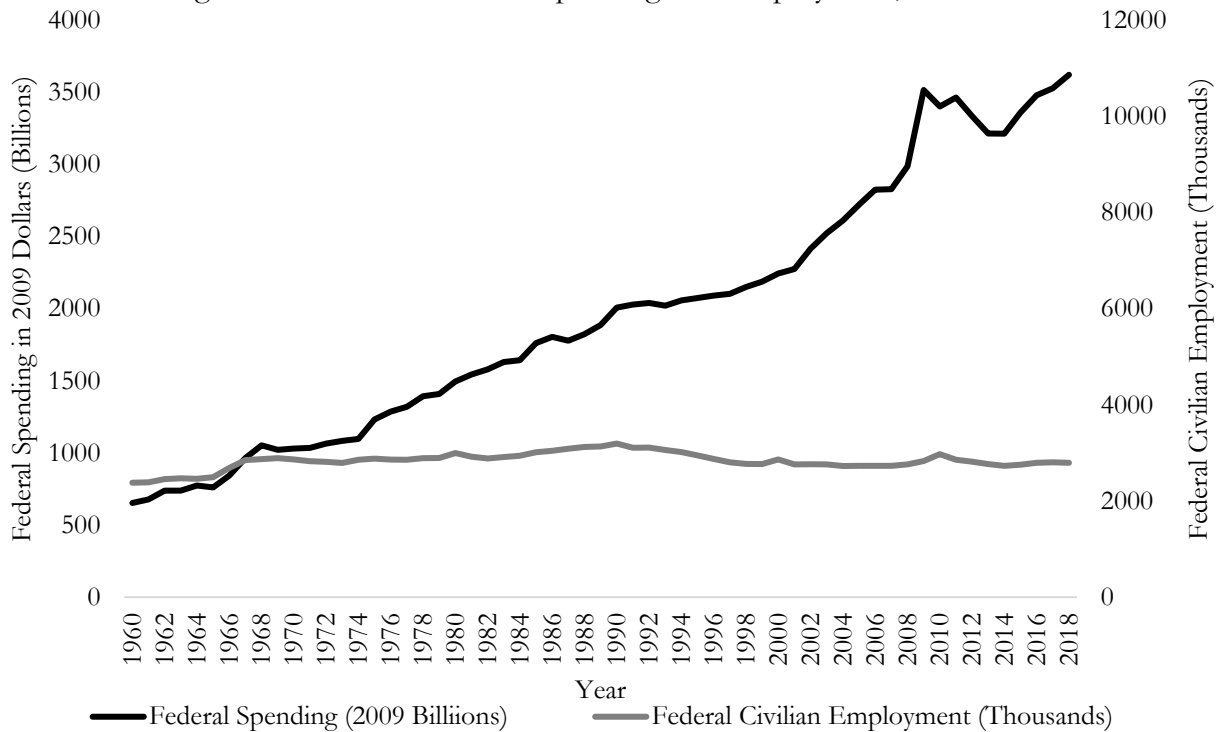
Doing More with Fewer and Less

The first thing to note about the administrative state at the end of the Obama Administration is that government was doing more than ever before with a workforce not much

larger than it was in 1960 (DiIulio 2014; Light 2008). Figure 1 includes data from 1960 to 2018 on inflation-adjusted federal spending and the size of the federal civilian workforce. It replicates and updates a similar figure in John DiIulio's excellent 2014 book. The data show that federal spending has increased more than 500% since 1960 while the federal workforce is only 17% larger. During the intervening period, entitlement spending has increased and the national government has taken on new responsibilities in policy areas like civil rights, Medicare, the environment, safe workplaces, consumer protection, education, and homeland security. The federal government has increasingly relied upon grants to state and local governments and contracts with not-for-profit organizations and private firms to implement the policies of the national government (DiIulio 2014; Light 2008; Verkuil 2017). Indeed, employment in local governments and government-related not-for-profits and firms has increased while federal employment has stagnated. Congress has found it advantageous at times to delegate responsibility for implementation to state and local governments (Krause and Bowman 2005; McCann 2018). National policies like the Affordable Care Act or welfare are increasingly implemented by a complex network of national, state and local, and private actors.

Indeed, the nature of public sector work has changed (Ingraham 1995). Federal employees are increasingly managers of complex networks of policy implementation, often with very little direct control over the parties needed for successful outcomes. The composition of the federal workforce has changed to reflect the new reality. There are fewer clerical and blue collar employees and a larger proportion of white collar and professional or technical employees (Bolton and de Figueiredo 2018). This is reflected in a shift in wage distribution in the federal government, with fewer workers occupying lower pay grades. The federal workforce has also become more productive as advances in technology have increased the returns of labor.

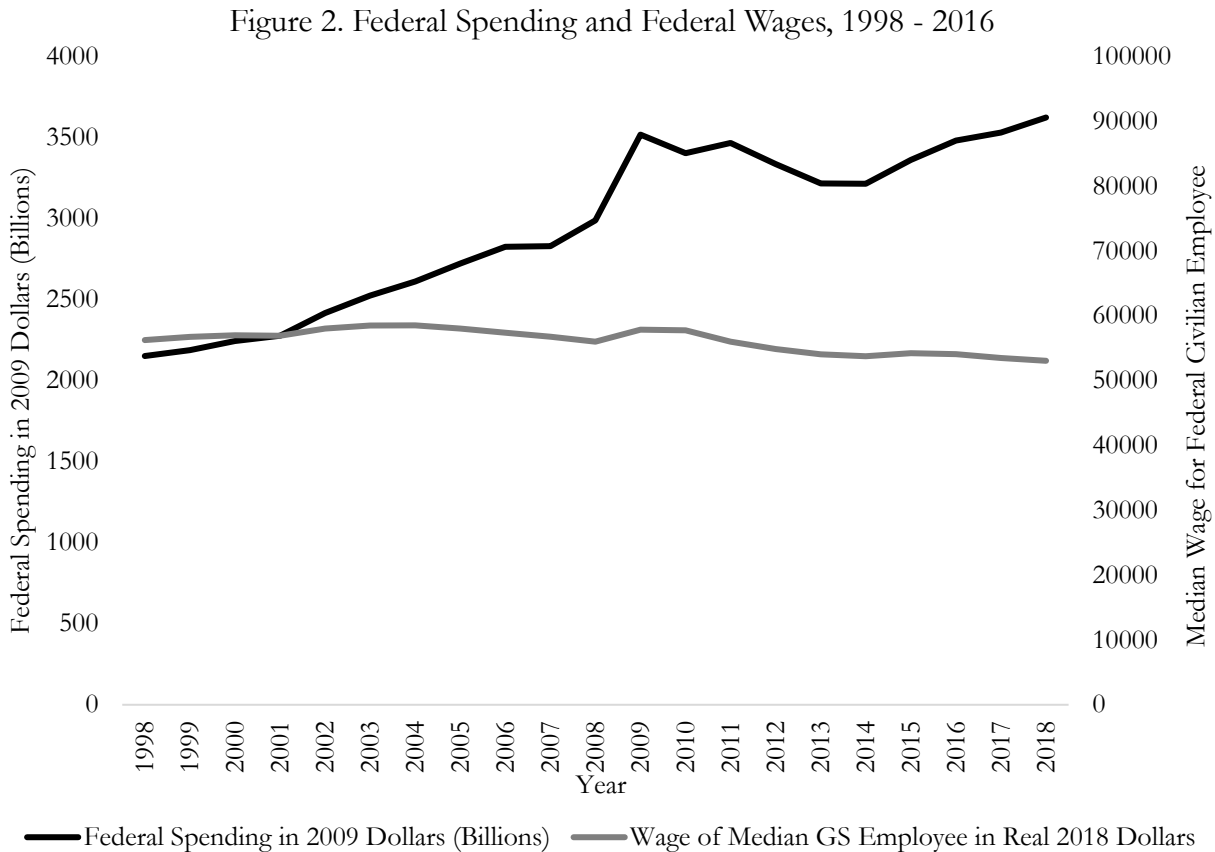
Figure 1. Growth in Federal Spending and Employment, 1960-2016



Note: Federal spending data come from Office of Management and Budget, Historical Tables, Table 1.1; Employment data come from Bureau of Labor Statistics, *Federal Government, Including U.S. Postal Service*. Federal spending is an estimate from the historical table. BLS employment data for 2018 is an average, excluding December.

Despite the changing composition of the federal workforce and its increased productivity, the inescapable fact is that Congress and the president are asking the administrative state to manage a greater number of increasingly complex programs with fewer people and resources. Congress and the president pay assiduous attention to full time employment (FTE) numbers in the federal government, setting limits and making careful allocations (Bolton 2014; Harris 1964; Ingraham 1995). The size of the federal government and the number of employees has become a proxy for disagreements about the size of government itself. At the same time, the federal government does not systematically track and rarely limits the number of contract employees that work alongside federal workers. Agency chief human capital officers manage the civilian workforce but rarely have any influence over procurement, including human services contracts. The ability to procure goods

and services devolves to lower level officials and, when necessary, up to higher level officials with sign off authority on larger contracts.



Note: Wages are first step of median federal employee GS grade during this time period. Source for median grade, 1998-2018: www.fedscope.opm.gov. Source for Step 1 salaries: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>.

Public opinion scholars have noted for a while that voters love government programs but they do not love “big government” (Light 2008). Congress has gotten the message, being generous with benefits but not with overhead. Indeed, less than 10% of funds for major social programs goes to administrative costs at the federal or state level (DiIulio 2014, 30). To illustrate, Figure 2 includes overall spending data alongside the median federal employee’s income (in 2018 dollars). Spending follows the familiar pattern from Figure 1 but real wages are actually going down. Like income for persons working in other sectors during this period, federal workers earn lower salaries now than

they did 20 years ago even though government work is growing in volume and complexity and the work is increasingly managerial, professional and technical.¹⁸

Public Sector Workforce under Stress

A second thing to note about the administrative state at the end of the Obama Administration is that the public sector workforce was generally capable, as one would expect in the world's most prosperous democracy but it was showing clear signs of stress (Lewis and Richardson 2017). At the end of 2014, Professor Mark Richardson and I fielded the Survey on the Future of Government Service with the help of a collection of academic, non-governmental, and government partners. The survey targeted 14,698 career and appointed federal executives in all non-advisory federal agencies and we received responses from 3,551 (24%). Importantly, the survey asked federal executives the extent to which respondents (strongly) agree or (strongly) disagree with the statement, "An inadequately skilled workforce is a significant obstacle to [my agency] fulfilling its core mission". Thirty-nine percent of respondents agreed or strongly agreed with this statement and 45% disagreed or strongly disagreed. A large proportion, though not a majority, of federal executives, expressed concern that a lack of human capital at their agency will prevent the agency from fulfilling their core mission. Whether 39% expressing their concern for the skill of their workforce is a large or small proportion is a matter of perspective but certainly non-trivial. When pressed further, one half of respondents thought the skill of the workforce in their agency had improved during their tenure and 81% reported they were still confident in their agency's ability to fulfill its core mission. There was significant variation across *agencies* in their average responses to these questions. In some

¹⁸ Specifically, I calculated the median GS grade, selected the first step in this grade, and adjusted for inflation to put this amount in 2018 dollars.

agencies career managers report optimism and strong confidence and in others very serious concerns.

One potential driver of these responses is the experience of these managers in trying to recruit and retain the very best workers. The survey asked respondents the extent to which they agreed with the following two questions: “[My agency] is unable to recruit the best employees” and “[My agency] is able to retain its best employees”.¹⁹ Forty-two percent of respondents indicated they could not recruit the best employees while 37% reported that they could.²⁰ Interestingly, 45% reported that they could retain their best employees and 33% reported that they could not.²¹ Those respondents that reported concerns with recruitment also reported concerns with retention and their agency-wide evaluations correlated strongly the Partnership for Public Service’s Best Places to Work rankings (which are based upon surveys of federal employees). Again, there is significant variation across the executive establishment. For example, only 30% of respondents in the Department of Housing and Urban Development agreed that they were able to retain their best employees compared to 66% in the Department of the Treasury.

Perhaps more worryingly, close to 40% of career executives reported that they had been *approached* about a job outside their agency within the last year and 43% reported that they were eligible to retire. One quarter expressed an intention to leave their position within the next year. The expected departures were ultimately realized over the next two years. Of the career members of the Senior Executive Service in our sample, 16% had departed government by September 2016, 26% by the end of November 2016, and 35% before the first 6 months of the Trump Administration was

¹⁹ To avoid the appearance of any bias in question wording and to create an attention check, the survey paired these questions and used the opposite wording.

²⁰ The proportions were as follows: Strongly disagree—9; Disagree—29; Neither agree nor disagree—20; Agree—32; Strongly agree—11. N=1,681, MoE=±2.6%.

²¹ The proportions were as follows: Strongly disagree—5; Disagree—28; Neither agree nor disagree—22; Agree—38; Strongly agree—7. N=1,681, MoE=±2.6%.

complete (Doherty et al. 2018). This is approximately a 50% increase over the average SES departure rate for the last 30 years.

Career executives at this level are managing major programs and offices, many larger than notable private sector firms. These career executives are repositories of expertise and the source of continuity in government. Their departure represents a serious concern for management performance, particularly since politically appointed agency heads are also coming and going at the same time.²² As a thought experiment, it is worth considering whether it would be wise to invest public pension funds in Apple Computer or Microsoft if 26% of their top executives departed within 24 month period. One would reasonably expect that this would adversely influence the development of new products, the rollout of a new operating system, and continued service of old products. Of course, the federal government is much larger and other career executives wait in the wings to assume positions recently vacated by those departing. Yet, it is worth heeding the warning. This departure rate is a problem in itself since it represents a loss of expertise and managerial disruption. It is also arguably symptomatic of larger problems in the public service that have developed over time.

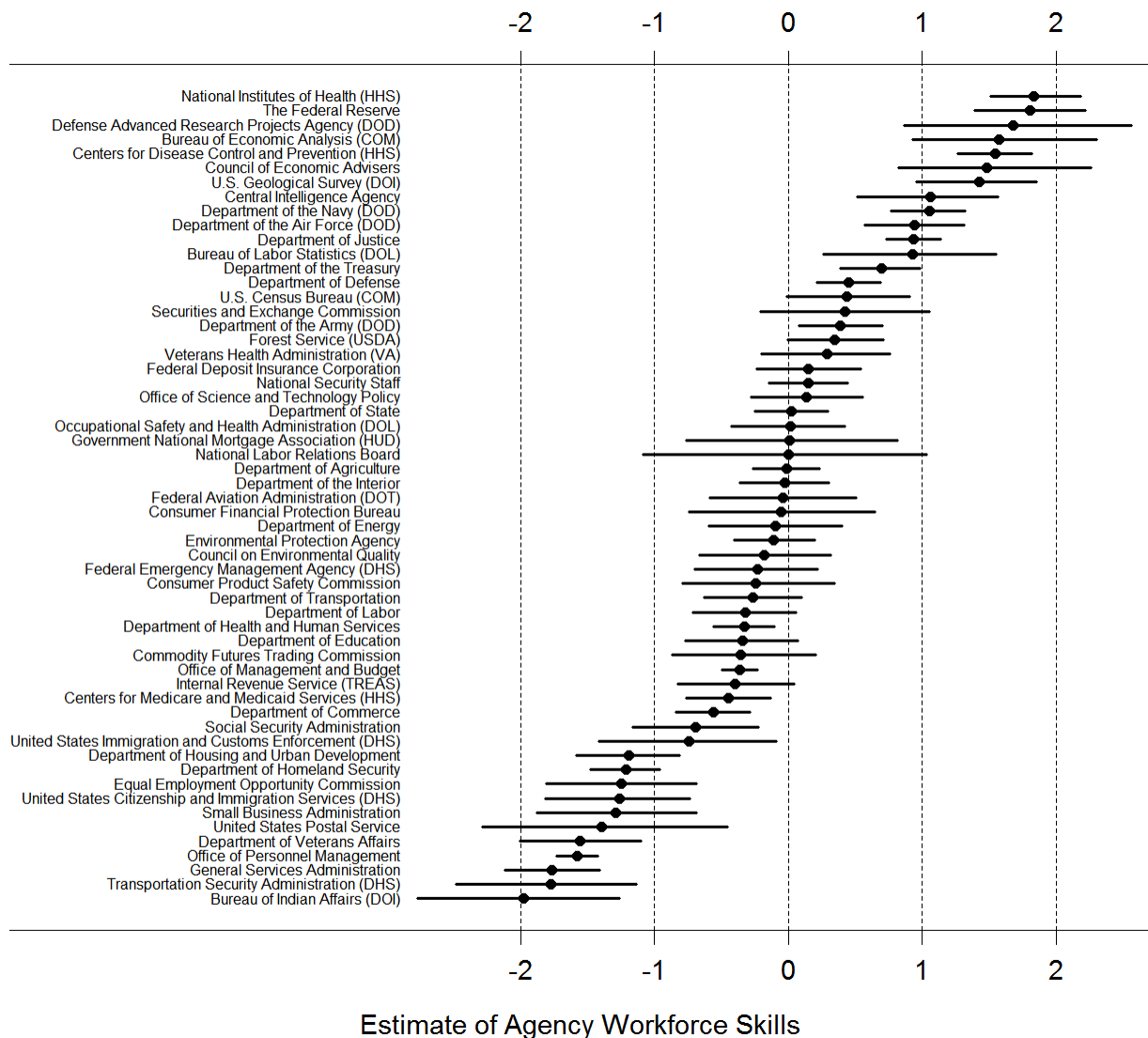
There were some agencies whose executives consistently reported that the workforce was healthy and others that reported significant weaknesses. These perceptions were subjected to comparison by agency outsiders. In addition to asking federal executives about their own agencies, we also asked them to evaluate the workforce skill of agencies they worked with most.²³ Figure 3

²² To put this in context, the *CEOs* of the largest 2,500 private sector firms depart at a rate of 10-17% per year over the 2000-2015 period. DeAnne Aguirre, Per-Ola Karlsson, and Gary L. Neilson, "From the Outside In," *strategy+business*, Issue 83, May 2, 2016 (<https://www.strategy-business.com/feature/From-the-Outside-In?gko=249fb>, accessed January 13, 2019).

²³ Specifically, respondents were given the following text: "The work of public managers involves working with other federal agencies. We are interested in which federal agencies you have worked with most in the context of your current job. Please select the three agencies you have worked with the most in order of how often you work with them." They were provided drop down menus to select agencies. They were then asked to evaluate three agencies they listed and up to 5 more they should know something about (in most cases OMB, OPM, other bureaus in their department). See Richardson et al. (2018) for full details.

graphs a subset of these external assessments (Richardson et al. 2018). The figure includes numerical estimates of workforce skill for a subset of the 159 agencies for which we have estimates. We derived estimates from answers to the following question: “In your view, how skilled are the workforces of the following agencies?” The figure reveals that there is significant variation among agencies. Some agencies such as the National Institutes of Health (NIH) and the Federal Reserve are evaluated as having a highly skilled workforce by colleagues in other agencies. Other agencies such as Transportation Security Administration and Bureau of Indian Affairs rate lower.

Figure 3. Estimates of Perceived Agency Workforce Skill



Source: Richardson et al. 2018.

Given the substantial variation across agencies illustrated in Figure 3, perhaps most important are the responses regarding federal management agencies specifically. Ideally, those agencies responsible for the administrative processes of the executive establishment would be highly functioning themselves in order to give us confidence that they are at work helping other agencies improve their performance. Among key management agencies are the Office of Management and Budget (OMB), the Office of Personnel Management (OPM) and other personnel related agencies, and the General Services Administration (GSA). OMB performs a number of key fiscal, policymaking, oversight, and management tasks for the president. The OPM is the federal government's chief human resources agency, managing federal personnel policy from hiring to retirement. The GSA helps other federal agencies by procuring products, services and facilities. It also oversees federal properties and sets policies for travel, property and management. Unfortunately, at the end of the Obama Administration, the survey evidence suggests that external audiences perceived these management agencies to be among the *least* skilled in government. Out of 159 agencies evaluated OMB, OPM, and GSA are all in the bottom third of agencies in workforce skills and OPM and GSA are in the bottom 10 (Richardson et al. 2018). Other management-related agencies such as the Federal Labor Relations Authority, Merit Systems Protection Board, and Office of Special Counsel are also in the bottom third. This is both a key piece of information about the status of the administrative state prior to the Trump Administration and evidence of its neglect by prior congresses and presidents.

Vacant at the Top

The third thing to note about the administrative state at end of the Obama Administration is the persistence of vacancies in top management positions. One of the distinctive features of the United States administrative-bureaucratic system among developed democracies is the way the

government staffs the top positions in the bureaucracy. Political appointees selected by the president fill the very top management positions in the United States. Top elected officials in other countries do the same. What distinguishes the United States is that presidents also populate lower positions in the departments and agencies with political appointees. In the executive departments, for example, there are secretaries and deputy secretaries, the latter often handling the day-to-day management. Below that, there are under and assistant secretaries managing large policy areas and additional appointees managing large sub-components (i.e., bureaus) within those policy areas. Most large departments also have political appointees manage important cross-agency functional tasks (e.g., human capital, information technology). The preceding appointees usually have politically appointed staff that work with them in their immediate offices (e.g., chiefs of staff, counselors, special assistants). In total, there are more than 3,000 positions to fill through political selection.

Over the last 30 years it has become more and more difficult to fill the political positions due to inter-branch fights over nominees and short tenures once appointees are in office (Light 2008). All principal officers of government must be nominated by the president and confirmed by the Senate. Of the total number of appointees, about 1,100 require Senate confirmation. During this time period, 15 to 25 percent of all Senate confirmed positions have been vacant at any given time on average (Dull and Roberts 2009; O'Connell 2008). During the Obama Administration, more than 15% of positions had not even had a nominee after 18 months and many of the first appointees had already begun departing their positions by that point (Lewis 2011). Those positions most likely to be vacant include positions tasked with the long term management of government agencies, including under- and assistant secretaries of management as well as inspectors general and chief financial officers (Lewis 2011; O'Connell 2017). Those nominees that agree to serve and are fortunate enough to be confirmed have stayed on average between 2-3 years, less for lower level appointees (Dull and Roberts 2009).

It has become increasingly difficult for presidents to get nominees through the confirmation process. The proportion of nominees failing has increased steadily as has the average time it takes a nominee to get confirmed (O'Connell 2017). With increased obstacles, presidents have taken longer to nominate persons for open positions.²⁴ This has resulted in a greater number of vacancies and vacancies that last for longer periods. Norms that used to govern nomination politics, both between branches and within the Senate, have broken down as the parties have become more polarized. Whereas presidents were previously reluctant to put forward nominees that were not broadly acceptable to the Senate and the Senate was reluctant to stand in the way of qualified nominees, nominations have become part of the larger political struggle between parties. This is particularly the case when the opposition party controls the Senate. But, even in cases of unified government, the minority can slow down nominations (although this was easier when nominations used to require a supermajority).²⁵ Individual senators, even those from the president's own party, have been increasingly willing to hold up nominees in order to secure something of value from the administration (Loomis 2001; Mackenzie 2002).²⁶

Persistent vacancies hurt the performance of the administrative state. The United States system builds in instability and short time horizons due to the large number of appointed positions

²⁴ With the potential for a political fight to break out over any nominee and that fight to have electoral consequences, presidents have been slower in putting names forward, deciding where to pick their fights. Presidents are vetting carefully and sometimes having a harder time finding qualified persons willing and able to endure the process. Nominations can drag on for months and be quite controversial. Higher level nominees pay a significant amount in legal fees to even be considered and then, ultimately, comply with ethics requirements. The pay is low relative to many private sector jobs and moving to Washington is hard on many families.

²⁵ The minority can increasingly use holds with an implied threat to refuse unanimous consent and force cloture votes which significantly slows down the work of the Senate. After a successful cloture vote, the minority is allowed 30 additional hours of debate.

²⁶ During the Obama Administration, Democratic Senators Robert Menendez and Mary Landrieu held up nominations to the White House Office of Science and Technology Policy and Office of Management and Budget to protest the Administration's actions on policy toward Cuba and oil extraction in the Gulf of Mexico, respectively. Juliet Eilperin, "Nominations on Hold for Two Top Science Posts," *Washington Post*, March 3, 2009 (<http://www.washingtonpost.com/wp-dyn/content/article/2009/03/02/AR2009030202425.html>, last accessed October 26, 2010); Jessica Brady, "Landrieu Maintains Hold on Lew Despite End of Drilling Ban," *Roll Call*, October 12, 2010 (<http://www.rollcall.com/news/50659-1.html>, last accessed October 24, 2010).

and these problems are only exacerbated when leadership positions are long vacant or filled with a succession of short term acting officials. Leadership vacuums persist, long term planning is delayed, and the stop-start manner of agency leadership leaves workers confused. In some cases, particularly in smaller commissions, the persistence of vacancies has meant that agencies have had periods where they could not function due to a lack of a quorum or other key official.²⁷

Summary

As the previous evidence suggests, the administrative state was under stress prior to President Trump's inauguration. Episodic efforts to reverse the trend through sometimes effective but short lived management agendas have occasionally reversed the trend (see, however, Light 1997). So, too, have targeted efforts to solve specific problems like the dysfunctional appointments process or prevalence of unclear agency goals.²⁸ Still, the steady state in current U.S. politics has been a common neglect of the infrastructure of government. It is not that outside groups, some members of Congress, and officials in the different presidential administrations have not beat the steady drum of management and reform. Rather, it is that separating such efforts from the demands of partisan politics has become more difficult. Fewer elected officials find benefit in such activities and those that pursue such efforts find it harder to locate fellow travelers within and across parties and branches. It is also a massive task given the size, complexity, and vested interests involved in the executive establishment.

²⁷ Since 2000, at least 10 different commissions have operated for a period without a quorum due to open commissioner positions. In the current administration, the Federal Labor Relations Authority has not been able to consider cases brought by government unions because the general counsel position is vacant. Erich Wagner, "The Empty Chair at the Heart of the White House's War on Unions," *Government Executive*, July 5, 2018 (<https://www.govexec.com/management/2018/07/empty-chair-heart-white-houses-war-unions/149470/>, accessed December 26, 2018).

²⁸ Some examples include the Presidential Appointment Efficiency and Streamlining Act of 2011 and the Government Performance and Results Modernization Act of 2010.

Trump and the Deconstruction of the Administrative State

President Trump's approach to the administrative state is driven by some of the same concerns as his predecessors. Like presidents before him, the President Trump confronted a massive administrative state whose cooperation he needed to fulfill promises he made during the campaign (e.g., immigration, trade policy). It also presented him the same challenges as previous presidents. The administrative state can be a constant source of bad news for the president, taking actions the president opposes or making mistakes that reflect poorly on the chief executive. Like many before him, the president also believed that parts of the bureaucracy were unsympathetic to his agenda, even out to undermine him (O'Leary 2005; Resh 2015).

His concerns about the bureaucracy, his criticism of it, and some of his procedural and substantive actions can find occasional parallels in earlier administrations, particularly Republican administrations (Thrower 2018). What is distinctive about President Trump's approach to the administrative state is his eschewing the role of chief executive and his continual posture as president but not chief executive. This is perhaps best illustrated in his willingness to shut down parts of the government for long periods of time as part of bargaining over immigration policy and his prominent verbal attacks on the administrative state as the "deep state" and part of the swamp. Ironically, it is this eschewing of responsibility as chief executive that has limited the president's effectiveness in his efforts to deconstruct the administrative state. The president has pursued a number of procedural and substantive changes aimed at reining in the power of government agencies but his own management failings have thus far limited the *direct* reach and permanence of his actions while still doing serious damage to the infrastructure of government.

Symbolic Actions

One distinctive feature of President Trump's approach has been his symbolic efforts to disassociate himself from the departments and agencies of government. This includes, in many cases, his own appointees such as the Secretary of State or the Attorney General. The president ran as an outsider candidate promising to "drain the swamp", a colorful reference to his goal of cleaning up Washington and reducing the influence of corrupt elites that had captured government.²⁹ This includes permanent civil servants. As an outsider, Trump could pick and choose which parts of the government were swampy, which parts he had drained, and which parts remained problematic and still in need of his intervention. By referring to a broad class of undefinable bad actors that were the cause of all governmental problems, Trump could position himself as a champion of voters and avoid blame for inevitable problems that would arise, at least for a while. By including government workers in the swamp metaphor, however, the president made it more difficult for him to lead those same workers or make government an attractive place to work.

Previous presidents have been critical of the departments and agencies of government but their statements have been more oblique.³⁰ While all new administrations enter government with some suspicions about the professionalism of parts of the continuing government, none have publicly questioned its loyalty or competence quite like President Trump. The President has gone so far as to complain about a "deep state" of shadowy faceless bureaucrats working against the president's agenda. He has publicly denigrated and undercut the work of the intelligence agencies. For example, he sided with Russia in assessments of Russian involvement in the 2016 election over the unanimous opinion of his intelligence agencies (Miller 2018). He sided with Saudi Arabia over

²⁹ "Donald Trump's Contract with the American Voter" (<https://assets.donaldjtrump.com/landings/contract/O-TRU-102316-Contractv02.pdf>, accessed December 28, 2018).

³⁰ For example, President Reagan famously said that "government is not the solution to our problem; government is the problem." Virtually every modern president, Republican or Democrat, has sought to reform, reorganize, or reinvent government, implicitly criticizing the existing administrative state—its agencies, workers, and processes (Arnold 1998; Light 1997).

his own Central Intelligence Agency when confronted with Crown Prince Mohammed bin Salman's denial of involvement in the death of journalist Jamal Khashoggi.³¹ President Trump has publicly criticized federal law enforcement officials for being biased.³² Others in his administration have often taken the same tone. When Foreign Service Officers used the State Department's formal dissent channel to complain about the administration's travel ban executive order, the president's press secretary suggested it might be appropriate for them to find other work outside government.³³ Secretary of Interior Ryan Zinke claimed that close to 30 percent of Interior Department employees were not loyal the flag.³⁴

By depicting the permanent government as corrupt, disloyal, and unprofessional, the president can justify efforts to deconstruct it through punitive actions like pay freezes, reductions in force, and efforts to reduce the rights and benefits of federal workers. Yet, the symbolic actions themselves have consequences for the federal government's ability to recruit, motivate, and retain an excellent workforce.

³¹ Josh Dawsey, Shane Harris, Karen DeYoung, "Trump calls Saudi Arabia a 'great ally,' discounts crown prince's responsibility for Khashoggi's death," *Washington Post*, November 20, 2018 (https://www.washingtonpost.com/politics/trump-defends-saudia-arabias-denial-about-the-planning-of-khashoggis-death/2018/11/20/b64d2cc6-eceb-11e8-9236-bb94154151d2_story.html?utm_term=.c858dd73abb6, accessed December 28, 2018).

³² David E. Lewis, "President Trump claims the FBI is tainted and its Reputation in tatters. This graph shows he's wrong," *Washington Post* (Monkey Cage), December 16, 2017 (https://www.washingtonpost.com/news/monkey-cage/wp/2017/12/16/president-trump-claims-the-fbi-is-tainted-and-its-reputation-in-tatters-this-graph-shows-hes-wrong/?utm_term=.55eea9cea010, accessed December 28, 2018).

³³ Zeke J. Miller, "White House Tells Dissenters in State Department: 'Get With the Program' or Quit," *Time Magazine*, January 30, 2017 (<http://time.com/4653958/white-house-dissent-state-department-response/>, accessed December 28, 2018).

³⁴ Darryl Fears and Juliet Eilperin, "Zinke says a third of Interior's staff is disloyal to Trump and promises 'huge' changes," *Washington Post*, September 26, 2017 (https://www.washingtonpost.com/news/energy-environment/wp/2017/09/26/zinke-says-a-third-of-interiors-staff-is-disloyal-to-trump-and-promises-huge-changes/?utm_term=.cdfde3160948, accessed December 28, 2018).

Procedural Actions

Beyond what the President said about the administrative state, he also issued a number of cross-agency directives aimed at disrupting its machinery. Some actions targeted rulemaking and enforcement directly and others were intended disrupt the bureaucracy producing regulations. Most visibly, President Trump issued orders intended to limit the issuance of new rules and remove existing rules that unduly restrict business activity. For example, the president issued an order that required agencies to eliminate two regulations for every new regulation they propose and offset the costs of any new regulation with reductions through the elimination of existing regulations (EO 13771). This order makes it difficult for agencies to promulgate new regulations since it adds the burden of finding old regulations to eliminate and requires any new costs to be offset by the elimination of existing costs. He also issued an order requiring each agency to identify a regulatory policy officer with the job of reviewing existing regulations that could be modified or eliminated (EO 13777). These actions, coupled with the president's public statements and the actions of the president's appointees, have been successful at reducing the number of *new* regulations coming from the departments and agencies of the executive branch (Raso 2018). The Office of Information and Regulatory Affairs (OIRA) received about one third as many new economically significant rules for review and reported that they oversaw the finalization of only three in 2017 (Coglianese 2018).

In addition to orders directly targeting the key processes of the administrative state, the President issued orders intended to disrupt the organizations and people of the administrative state. Right after inauguration, he ordered a hiring freeze and issued directives that required agencies to come up with plans to reorganize their activities and cut employment, notably prior to communicating the key objectives around which he wanted agencies to organize and conduct

workforce planning (Memorandum 1/23/2017; EO 13781; OMB Memorandum M-17-22).³⁵ Later in his term, the president issued a series of orders intended to roll back some civil service protections. Included among these orders were directives issued to make it easier to fire federal employees and limit the power of government unions (EO 13839; EO 13837; EO 13836).³⁶ The president navigated the budget process in a way that led to a shutdown and he issued an order freezing employee pay during the government shutdown so that once government was open again employees would not get cost of living increases. The president entered office with the belief that the administrative state was too large and too active and riddled with waste, fraud and abuse. His broad brush actions intended to force agencies to reorganize and get smaller and remove civil service protections were reflective of these views.

Substantive Actions

Beyond symbolic statements and cross-agency procedural orders, the Trump Administration has worked to select likeminded appointees and judges and taken a number of agency-specific actions to roll back regulation and enforcement.³⁷ The president signed legislation enacted by the Republican Congress to remove more than a dozen regulations put in place at the end of the Obama

³⁵ See “Presidential Memorandum Regarding the Hiring Freeze” (<https://www.whitehouse.gov/presidential-actions/presidential-memorandum-regarding-hiring-freeze/>, accessed December 31, 2018); Office of Management and Budget, “Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce,” (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf>, accessed December 31, 2018).

³⁶ The president sought to limit the time and resources of union officials working in government and renegotiate collective bargaining agreements. To find the executive order on the pay freeze see details from the Office of Personnel Management: “Adjustments of Certain Rates of Pay,” (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/pay-executive-order-2019-adjustments-of-certain-rates-of-pay.pdf>, accessed December 31, 2018).

³⁷ As White House strategist Stephen K. Bannon noted in at the start of the administration, the president’s appointees had been selected with the goal of deconstructing the administrative state, including the elimination of regulations and enforcement. See David Z. Morris, “Steve Bannon Says Trump’s Cabinet Picks Are Intended to ‘Deconstruct’ Regulation and Agencies,” *Forbes*, February 25, 2017 (<http://fortune.com/2017/02/25/bannon-trump-cabinet-cpac/>, accessed December 31, 2018); Jeremy W. Peters, “Trump’s New Judicial Litmus Test: Shrinking ‘the Administrative State,’” *New York Times*, March 26, 2018 (<https://www.nytimes.com/2018/03/26/us/politics/trump-judges-courts-administrative-state.html>, accessed January 5, 2019).

Administration (Thrower 2018).³⁸ The president also issued executive orders bypassing the normal agency processes and regulations in order to set policy he preferred. For example, the president issued a memorandum that directed federal agencies to approve permits for the construction and operation of the Keystone XL Pipeline.³⁹ EO 13765 directed the Department of Health and Human Services to weaken the Affordable Care Act and “waive, defer, grant exemptions from, or delay the implementation” of parts of the Act that impose a fiscal burden on state and local government or private actors.

Like other presidents, President Trump sought to empower some agencies and rein in others. Notably, the president sought to increase the freedom and capacity of the agencies responsible for immigration enforcement and the Department of Defense. In both agencies the president granted administration officials both more authority and larger budgets.⁴⁰ In most other agencies (where the president sought to fill vacant positions), however, appointees entered service intending to limit the activity of the agencies they administered. Agency heads can exercise a lot of power if they know how to use the authority embedded in those positions, including power to interpret agency own statutes, set agency priorities, make enforcement choices, and move people

³⁸ Congress used procedures outlined in the little used Congressional Review Act to remove these regulations. Susan E. Dudley, “We Haven’t Seen the Last of the CRA Yet,” *Forbes*, October 31, 2017 (<https://www.forbes.com/sites/susandudley/2017/10/31/we-havent-seen-the-last-of-the-cra-yet/#1f4b1be02680>, accessed December 31, 2018).

³⁹ “Presidential Memorandum Regarding Construction of the Keystone XL Pipeline,” (<https://www.whitehouse.gov/presidential-actions/presidential-memorandum-regarding-construction-keystone-xl-pipeline/>, accessed December 31, 2018).

⁴⁰ For details of budget increases for these agencies see “Winners and Losers in Trump Budget in One Chart,” *Roll Call*, February 13, 2018 (<https://www.rollcall.com/news/politics/winners-and-losers-in-the-trump-budget>, accessed December 31, 2018). For details of Trump empowering bureaucratic agents in these agencies see Franklin Foer, “How Trump Radicalized ICE,” *The Atlantic*, September 2018 (<https://www.theatlantic.com/magazine/archive/2018/09/trump-ice/565772/>, accessed December 31, 2018); Jeremy Diamond, “How Trump is empowering the military—and raising some eyebrows,” *CNN*, June 26, 2017 (<https://www.cnn.com/2017/06/24/politics/trump-pentagon-shift-war-power-military/index.html>, accessed December 31, 2018).

and money around.⁴¹ Appointees such as Ben Carson⁴², Betsy DeVos⁴³, Mick Mulvaney⁴⁴, and Scott Pruitt⁴⁵ sought to limit the promulgation of new rules, reviewed old rules and guidance, and reduced enforcement actions with more or less success. They did this directly via departmental orders and indirectly through the marginalization and reshuffling of career staff perceived to stand in the way of their efforts (Doherty et al. 2018).⁴⁶

Has the President Been Successful?

Thus far, the president's own management choices have hindered his efforts at deconstruction. Congress and the courts have also been reluctant to sign on to many of the

⁴¹ See David E. Lewis, "Why Donald Trump needs the 'administrative state' that Steve Bannon wants to destroy," *Washington Post*, March 2, 2017 (https://www.washingtonpost.com/news/monkey-cage/wp/2017/03/02/why-donald-trump-needs-the-administrative-state-that-steve-bannon-wants-to-destroy/?utm_term=.fb4681c6382e, accessed December 31, 2018).

⁴² In the Department of Housing and Urban Development, Secretary Ben Carson has suspended a rule requiring local governments remedy long-standing patterns of segregation. He lowered the number of secretary-initiated investigations into racial bias and reduced informal efforts to get local governments to comply with the 1968 Fair Housing Act. Tracy Jan, "Ben Carson's HUD Dials Back Investigations into Housing Discrimination," *Washington Post*, December 24, 2018 (https://www.washingtonpost.com/business/economy/ben-carsons-hud-dials-back-investigations-into-housing-discrimination/2018/12/21/65510cea-f743-11e8-863c-9e2f864d47e7_story.html?utm_term=.56d536c76169, accessed December 29, 2018).

⁴³ For details about DeVos's efforts to roll back regulations, guidance, and enforcement on for profit colleges, Title IX, and affirmative action in the Department of Education see Shalina Chatlani, "How Betsy DeVos is upending Obama-era legacy of higher education," *EducationDive*, August 10, 2018 (<https://www.educationdive.com/news/how-betsy-devos-is-upending-the-obama-era-legacy-of-higher-education/529025/>, accessed December 31, 2018).

⁴⁴ As acting director of the Consumer Financial Protection Bureau, Mick Mulvaney asked Congress to reduce its powers and he took administrative actions to limit its reach. Mulvaney reduced the size of the agency and reorganized it to make it more responsive to political appointees. He began work to undo a rule related to payday lenders and dropped cases against parties in violation of the existing rule. See Sylvan Lane, "Five Ways Mulvaney is cracking down on his own agency," *The Hill*, June 10, 2018 (<https://thehill.com/regulation/finance/391443-five-ways-mulvaney-is-cracking-down-on-his-own-agency>, accessed December 31, 2018); Renae Merle, "Trump administration strips consumer watchdog office of enforcement powers in lending discrimination cases," *Washington Post*, February 1, 2018 (https://www.washingtonpost.com/news/business/wp/2018/02/01/trump-administration-strips-consumer-watchdog-office-of-enforcement-powers-against-financial-firms-in-lending-discrimination-cases/?utm_term=.4da39a043bbb, accessed December 31, 2018).

⁴⁵ As director of the Environmental Protection Agency, Scott Pruitt worked to drop or settle enforcement cases, withdraw rules in progress, delay and reverse existing rules, and issue guidance and policies friendly to manufacturers. See Brady Dennis and Juliet Eilperin, "How Scott Pruitt turned the EPA into one of Trump's most powerful tools," *Washington Post*, December 31, 2017 (https://www.washingtonpost.com/national/health-science/under-scott-pruitt-a-year-of-tumult-and-transformation-at-epa/2017/12/26/f93d1262-e017-11e7-8679-a9728984779c_story.html?utm_term=.61712895adff, accessed December 31, 2018).

⁴⁶ See Evan Osnos, "Trump vs. the 'Deep State': How the Administration's loyalists are quietly reshaping American governance," *The New Yorker*, May 21, 2018 (<https://www.newyorker.com/magazine/2018/05/21/trump-vs-the-deep-state>, accessed December 31, 2018).

president's actions. The president has pursued a number of goals through executive order or memorandum. These orders should be understood in context. As an outsider to government, and one that staffed his White House with few people with insider knowledge of the administrative state, the president does not know where power lies in the executive or how to effectively use it. President Trump's directives, such as those initiating reorganization and workforce cuts, have the structure of "go figure out a way to do this and report back". Both the fact that orders have to be issued and that they have been very general are signs of weakness rather than strength. Effective presidents can secure cooperation in the departments and agencies without an order (Neustadt 1960). Of course, one of the benefits of the orders for the president are their symbolic value but if other stakeholders perceive them as symbolic, this limits their effectiveness.

Successful implementation of presidential directives requires careful White House oversight, an effective appointment strategy, and cooperation from Congress and the courts. The president has a small and poorly organized White House staff and he has placed a low priority on filling a large number of important appointee positions (Bernhard et al. 2018; Tenpas 2018). The White House employs about 100 fewer persons than previous presidents and has suffered from dramatically higher turnover (Tenpas 2018). Normally, presidents employ 450 to 500 persons in the White House Office. During 2018, President Trump's White House included a staff of 374 employees.⁴⁷ The senior staff turnover rate has been 83 percent in the first two years, twice the rate of President Obama and almost 5 times the rate of President George W. Bush. The president's staffing problems lead to implementation problems because orders are issued without proper vetting, lack a clear communications plan, and it can be unclear to agencies exactly what has been decided and who is

⁴⁷ Adam Adnrzejewski, "Trump's Lean White House 2018 Payroll On-track to Save Taxpayers \$22 Million," *Forbes*, June 29, 2018 (<https://www.forbes.com/sites/adamandrzejewski/2018/06/29/trumps-lean-white-house-2018-payroll-on-track-to-save-taxpayers-22-million/#61b893ac4e4f>, accessed January 3, 2019).

responsible for after-action implementation.⁴⁸ If officials in the orbit of the president do not follow up to ensure compliance, agencies doubt the president's intentions and compliance suffers.

After two years, the president has also lagged behind all of his predecessors in filling key administration positions.⁴⁹ At the end of 2018, President Trump had successfully filled 380 of 707 key management positions. Another 195 persons had been nominated but not confirmed. This does not include more than 400 ambassadorships, US attorneys, US marshals, or appointments to minor boards and commissions to which the vacancy rate is dramatically higher. Among the positions most likely to be vacant are positions responsible for management, finances, personnel, and congressional relations. In the positions that have been filled, there has also been high turnover. At his cabinet meeting at the start of his third year, acting officials headed three executive departments and temporary officials served at head of the Environmental Protection Agency, Ambassador to the United Nations, and Chief of Staff. The two most important management agencies in government, the Office of Management and Budget and Office of Personnel Management, were run by a dual-hatted appointee (Mick Mulvaney also serving as Chief of Staff) and an acting OMB official, respectively.⁵⁰ For many positions, the president is having a difficult time recruiting qualified nominees.⁵¹

⁴⁸ Dawsey, Josh, Eliana Johnson, and Ben White. 2017. "Kelly Considers Further Shuffling of West Wing Staff, Officials Say." *Politico*, August 11, <https://www.politico.com/story/2017/08/11/kelly-considersmore-west-wing-changes-trump-241560> (accessed March 19, 2018).

⁴⁹ Charles S. Clark, "Vacancy Rate for Top Agency Jobs Continues to Set Records," *Government Executive*, August 1, 2018 (<https://www.govexec.com/management/2018/08/vacancy-rate-top-agency-jobs-continues-set-records/150224/>, accessed January 3, 2019). More generally see the important work tracking nominees by Partnership for Public Service and *Washington Post* (<https://www.washingtonpost.com/graphics/politics/trump-administration-appointee-tracker/database/>, accessed January 3, 2019).

⁵⁰ In smaller agencies responsible for labor relations and merit system research and adjudication vacancies have left the agencies unable to perform key functions due to a lack of a quorum. Chase Gunter, "MSPB to close 2018 without a quorum," *FCW*, November 28, 2018 (<https://fcw.com/articles/2018/11/28/mspb-no-quorum-gunter.aspx>, accessed January 3, 2019); Erich Wagner, "The Empty Chair at the Heart of the White House's War on Unions," *Government Executive*, July 5, 2018 (<https://www.govexec.com/management/2018/07/empty-chair-heart-white-houses-war-unions/149470/>, accessed January 3, 2019).

⁵¹ Philip Bump, "The Trump administration has a recruiting problem," *Washington Post*, June 6, 2017 (https://www.washingtonpost.com/news/politics/wp/2017/06/06/the-trump-administration-has-a-recruiting-problem/?utm_term=.fa0f9c450525, accessed January 3, 2019); Sarah Westwood and Pamela Brown, "White House

As a result, the president has fewer allies to articulate a clear vision for what the president wants and to signal the president's commitment to the policies he himself has announced. Indeed, there is confusion across branches about whether the president is committed to orders he has issued.⁵² This obviously limits the effectiveness of their implementation. Without appointees, it is also hard for the president to sell the administration's policies to agencies and to stakeholders in Congress. The president's vacancies have also slowed down his effort to rollback regulations in the departments and agencies (Thrower 2018).

Resistance from Congress and the courts also hints at a deeper problem with the president's own management choices. His White House has been unsuccessful finding allies to support his efforts. Indeed, Congress has resisted the president's efforts to reorganize the executive and cut federal employment and orders that have a budgetary component have been partly or completely countermanded by Congress.⁵³ The package of appropriations bills passed in the fall included provisions preventing reorganizations or workforce cuts in a number of agencies, including the Environmental Protection Agency and Departments of Justice and State. Members of Congress have also asked agency inspectors general to investigate agency plans.⁵⁴

struggles to replace departing staff," *CNN*, June 15, 2018 (<https://www.cnn.com/2018/06/15/politics/white-house-staffing-marc-short/index.html>), accessed January 3, 2019).

⁵² For a clear example see Eric Katz, "Trump Administration Revives Priority for Workforce Cuts," *Government Executive*, December 17, 2018 (<https://www.govexec.com/management/2018/12/trump-administration-revives-priority-workforce-cuts/153621/>), accessed December 29, 2018). Christopher Flavelle and Benjamin Bain, "Washington Bureaucrats Are Quietly Working to Undermine Trump's Agenda," *Bloomberg*, December 18, 2017 (<https://www.bloomberg.com/news/features/2017-12-18/washington-bureaucrats-are-chipping-away-at-trump-s-agenda>), accessed January 3, 2018). For a similar argument see S.V. Date, "Trump's Agencies Are Learning to Ignore Their Boss," *Huffington Post*, August 10, 2017 (https://www.huffingtonpost.com/entry/trump-agency-directives-ignored_us_598b7888e4b0d793738c6a35), accessed January 3, 2019).

⁵³ For example, Congress has often ignored reorganization proposals that require legislative changes and have included new language in appropriations bills preventing the spending of any money to implement the president's reorganization proposals. Eric Katz, "Congress Begins Formally Blocking Trump's Government Reorganization Plan," *Government Executive*, September 12, 2018 (<https://www.govexec.com/management/2018/09/congress-begins-formally-blocking-trumps-government-reorganization-plan/151218/>), accessed December 29, 2018).

⁵⁴ Charles S. Clark, "Agriculture Watchdog Investigating Secretary's Plan to Move Offices out of D.C.," *Government Executive*, November 2, 2018 (<https://www.govexec.com/oversight/2018/11/agriculture-watchdog-investigating-secretarys-plan-move-offices-out-dc/152539/>), accessed December 30, 2018).

Beyond Congress, the administration has been often unsuccessful implementing policy in a way that avoids judicial scrutiny (Thrower 2018). In August, a federal district court barred the administration from implementing key parts of each workforce order concluding that the president had overstepped his legal authority.⁵⁵ In a number of high profile cases, the courts have struck down Trump Administration efforts to deregulate, ruling that their actions were arbitrary and capricious or short circuited required processes (Heinzerling 2018).⁵⁶ The Brookings Institution has been tracking deregulatory efforts and of the 18 cases involving deregulatory efforts decided by October of 2018, the Trump Administration had prevailed in only one (Raso 2018). One part of the president's difficulty is that what he wants may be unlawful but there is ample anecdotal evidence that he and his team have flouted process and overridden and ignored the advice and opinions of career professionals working in government (Heinzerling 2018).⁵⁷ These losses influence not only the rules in question but also future deregulatory efforts since precedent established in these cases can be cited in other cases moving forward.⁵⁸

Long-term Effects

While the direct efforts to deconstruct the administrative state have not been as successful as the president would like, the president's choices have notably accelerated the corrosion that existed in an already symptomatic bureaucracy. One can see this clearly in significantly higher departure

⁵⁵ Lisa Rein, "In victory for unions, judge overturns key parts of Trump executive orders," *Washington Post*, August 25, 2018 (https://www.washingtonpost.com/politics/in-victory-for-unions-judge-overturns-key-parts-of-trump-executive-orders/2018/08/25/5458e2bc-a880-11e8-97ce-cc9042272f07_story.html?utm_term=.9a44aa014479, accessed December 31, 2018).

⁵⁶ Juliet Eilperin, "The Trump administration keeps losing environmental court cases," *Washington Post*, August 18, 2018 (https://www.washingtonpost.com/energy-environment/2018/08/18/trump-administration-keeps-losing-environmental-court-cases/?utm_term=.3638c0002449, accessed December 31, 2018).

⁵⁷ Katie Benner, "Justice Dept. Rank-and-File Tell of Discontent Over Sessions's Approach," *New York Times*, October 19, 2018 (<https://www.nytimes.com/2018/10/19/us/politics/jeff-sessions-justice-department.html>, accessed January 3, 2019).

⁵⁸ Specifically, the court held that efforts to delay rules were subject to court review and also suggested agency efforts to delay rules must include an opportunity for public comment and include a rationale.

rates among the most experienced career executives. While federal employee departure rates are relatively stable overall, this masks a sharp increase in departures among those most senior civil servants that work directly with appointees and the White House (Bolton et al. 2018; Doherty et al. 2019). Of close to 7,000 career members of the Senior Executive Service, more than 1,500 departed between October 1, 2016 and September 30, 2017, and increase from the 1,100 that departed in President Obama's first year in office.⁵⁹

Beyond easily measurable outputs like departures and declines in morale in Trump-targeted agencies⁶⁰, one can only project the long term consequences of the Trump Administration for the infrastructure of government using past experience and research. Some of the president's actions will only endure as long as the White House supports them. Presidents can replace existing executive orders with new executive orders (Thrower 2017). If the President loses the 2020 election, a new president could rescind the president's procedural and substantive orders on topics like regulation and the federal workforce. A new president could also restart regulatory and enforcement processes stopped or delayed by the current administration. Of course, actions taken or *not taken* in areas like climate change or foreign policy cannot be easily reversed and the consequences could be long lasting.

Some efforts to rein in the administrative state will be more durable. For example, regulatory rollbacks via the Congressional Review Act (legislation) will require new legislation to reverse if this is what Congress and the president prefer. If the Trump Administration's efforts to promulgate new rules (including those replace existing rules) are successful, these rules will be difficult to change for

⁵⁹ Eric Katz, "The Number of Top Career Execs Leaving Government Nearly Doubled in Trump's First Year," *Government Executive*, September 5, 2018 (<https://www.govexec.com/management/2018/09/number-top-career-execs-leaving-government-nearly-doubled-trumps-first-year/151033/>, accessed December 28, 2018).

⁶⁰ There has been very little overall change in employee attitudes in the Federal Employee Viewpoint Survey, except in agencies particularly favored or targeted by the president (e.g., Immigration and Customs Enforcement, Consumer Financial Protection Bureau). See the Partnership for Public Service's analysis by agency (<https://bestplacestowork.org/>, accessed January 3, 2019).

the same reasons the current administration's rollback efforts have been challenging. All efforts to undo existing rules administratively require lengthy procedures specified in the Administrative Procedure Act and new proposed rules must surmount the legal justification and evidence that undergird the initial rule. Similarly, efforts to eliminate and reorganize offices and agencies, privatize functions, and cut the workforce can be quite durable.

More generally, the president's actions undercutting federal agencies may permanently damage agency reputations and human capital. The President's public attacks on law enforcement agencies have clearly reduced support among some groups and polarized their support in the public.⁶¹ More consequentially, the Trump Administration has reversed course on the implementation of large public policies such as the Affordable Care Act, various aspects of the environment and public lands, and immigration enforcement in ways that hurt agency reputations. Each of these policies is complex, involving large numbers of partners that rely on federal agencies for leadership and funds. Implementation partners expend substantial effort and resources to implement federal law. They build health care exchanges, conduct inspections and issue citations, and hire personnel and conduct training in line with federal policy goals. When the national government reverses course, particularly when it does so in a punitive way (i.e., targeting specific partners using administrative power) as it has done with sanctuary cities and disaster relief, it demonstrates a harmful inconstancy that makes essential stakeholders reluctant to follow a national lead or cooperate on important shared goals. Partners that have expended substantial time and resources on a federal goal, once burned, will be naturally cautious moving forward. As in international affairs, federal agencies need strong alliances with state and local governments and

⁶¹ Laura Santhanam, "FBI support is eroding, but most Americans still back bureau, poll says," *PBS News Hour*, April 17, 2018 (<https://www.pbs.org/newshour/politics/fbi-support-is-eroding-but-most-americans-still-back-bureau-poll-says>, accessed January 13, 2019); "Growing Partisan Differences in Views of the FBI; Stark Divide Over ICE," Pew Research Center, July 24, 2018 (<http://www.people-press.org/2018/07/24/growing-partisan-differences-in-views-of-the-fbi-stark-divide-over-ice/>, accessed January 13, 2019).

non-governmental partners to accomplish national goals. Erratic changes in agency policy reduce the credibility of alliances in that policy area and others. They make it harder for the national government to secure cooperation in the future, particularly without the expenditure of additional funds.

The breakdown of the historically neutral and effective public service will likely be the longest lasting effect of the Trump approach. The president's symbolic actions denigrating the public service, his executive orders, and his role in the government shutdown and pay and hiring freezes hurt the federal workforce. The federal government is not competing for young talent. At the end 2017, only 6.8% of federal workers were under the age of 30 and 1.4% between the ages of 20-24.⁶² At the other end of the age distribution, career federal executives can often make more money in the private sector and they are being approached about jobs. Many stay because they believe the work they do is important. The Trump Administration's symbolic and substantive actions are testing how valuable public service is to these executives. Departures are up dramatically and are likely to increase in the aftermath of shutdown. Unfortunately, those most likely to leave are those with outside options, leaving those that could not find outside work or chose not to pursue outside options. If the federal government cannot hire, train, and keep the best talent, the performance of the federal workforce will suffer and so will agency performance.

Conclusion

The election of President Trump has shed an unusually bright light on the health of the administrative state, both his own actions and how they are consistent with or different from those of his predecessors. President Trump confronted problems common to many modern presidents

⁶² U.S. Office of Personnel Management. *Fedscope: Employment, Full-Time, December 2017* (<https://www.fedscope.opm.gov/>, accessed January 13, 2019).

and his response has been partly predictable even if surprising in tone and tenor. Worrying signs preexisted his presidency and the President's actions have accelerated the corrosion that existed in an already symptomatic bureaucracy.

Perhaps the best analogy for the way national elected officials approach the infrastructure of government -- the agencies, people, and processes of the executive establishment -- is the same way elected officials approach national infrastructure more generally, from levees to the energy grid to roads and bridges. While voters expect levees to keep water out of urban areas, the energy grid to deliver reliable electricity to homes and businesses, and roads and bridges to get us where we want to go safely, a significant amount of infrastructure is crumbling below the surface. Most of the time and for most people this infrastructure does what is expected but at some point public neglect catches up with us and the weaknesses that have been allowed to develop lead to unfortunate and predictable failure. If elected officials could predict when infrastructure would fail with precision, they would act to prevent it.

This raises the more general question of why elected officials, including Trump and the current Congress, continue to neglect our governance infrastructure. The answer is that there are few electoral incentives to be attentive, particularly when there are competing demands and more electorally beneficial ways to spend time and scarce resources. If elected officials are making a choice between maintenance on a levee that may never be tested by a hurricane and a more visible expenditure on a new program for education or law enforcement, they will choose the new program virtually every time. Voters do not give elected officials credit for the problems that do not arise (Healy and Malhotra 2009). Rather, voters give elected officials credit for delivering distinct benefits or responding to problems. Attention to infrastructure, whether the nation's infrastructure or the infrastructure of government bureaucracy, requires risky leadership, a long-term perspective, and cooperation across parties and branches, something in short supply in our current politics.

There are no easy ways to incentivize elected officials to be regularly attentive to the infrastructure of government but there are some modest efforts that can be taken that move us in the right direction -- efforts to improve analytic capacity, stabilize leadership, and reform our personnel system.

Improve Analytic Capacity: The national government collects voluminous amounts of data but often not the right kind of data and the national government is in remarkably short supply in *analytic* capacity. For example, the kind of data Mark Richardson and I collected on which agencies were working well and poorly does not exist in the federal government. To begin, the federal government does not maintain an authoritative list or map of the departments and agencies of the executive establishment (Lewis and Selin 2012). This obviously makes management difficult. The government-wide data the federal government collects is subject to voluntary cooperation by government agencies, is dated, and has limited value for modern human resources management (despite their efforts to use it for this purpose). For example, this year the Department of Veterans Affairs (which employs 18.5% of the civilian workforce) decided to no longer participate in the Federal Employee Viewpoint Survey (FEVS), the primary data undergirding federal management efforts.⁶³ In previous years, other government agencies decided not to send basic personnel data to the Office of Personnel Management (OPM), meaning that the federal government's human resources agency itself had a difficult time counting the total number of government employees. The key management agencies that collect data have little capacity to analyze that data themselves. For example, the Partnership for Public Service, a Washington, DC non-profit conducts the primary analysis of the FEVS because OPM itself has too little capacity to do that work itself. So, the federal

⁶³ Nicole Ogrysko, "VA drops the FEVS in favor of its own employee engagement survey," *Federal News Network*, June 28, 2018 (<https://federalnewsnetwork.com/all-news/2018/06/va-drops-the-fevs-in-favor-of-its-own-employee-engagement-survey/>), accessed February 11, 2019).

government has no agreed upon list of agencies, no accurate count of federal employees (not to mention contractors), and no systematic or reliable knowledge of which agencies are performing well or poorly. Building up such capacity would be a good place to begin. Providing simple descriptive information about the state of management performance for Congress and the president would help incentivize elected officials to be attentive to the performance of the bureaucracy.

Stabilize Leadership: One of the persistent problems in federal management is the short time horizons of elected officials and the 3,000+ that run federal agencies. One way to improve performance would be to stabilize leadership in federal agencies through reform of the appointee system, cutting the number of positions filled by appointees and improving the process for getting nominees confirmed. By reducing the number of positions filled by political appointment, Congress would create more permanence in agency management, reduce the Senate's confirmation workload, and ease problems associated with the broken confirmation process. It would also better ensure that top level managers had the necessary experience for their work in agencies and create incentives for lower level employees to stay and work in agencies in hopes of advancing to a top job (Lewis 2008). Beyond reducing the number of appointees, Congress at various times has considered efforts to make the nomination and confirmation process easier on nominees by consolidating and streamlining background checks and paperwork across branches, automating this work, and providing resources to help nominees navigate the process (Loomis 2001; Davis 2014). Congress has taken steps recently to eliminate confirmation requirements for some appointed positions and study ways to improve the process and could reasonably build on these efforts.

Reform Personnel System: A final step Congress and the president could take is to reform the civil service. There is bipartisan agreement that the federal personnel system is outdated, fragmented, and overly bureaucratic. It was created largely to prevent abuse rather than as a modern human resources system. There are clear problems with recruitment, promotion, training, and

dealing with poor performers. This last year, the president, members of Congress, and prominent non-profits such as the Partnership for Public Service and the Volcker Alliance have advocated for dramatic reform of the civil service. A number of reasonable proposals exist for comprehensive civil service reform that strike a middle ground. Work to reform a system in a way that brings in, trains, and keeps talent is valuable work and work about which there should be bipartisan agreement.

These modest reform proposals further highlight the state of our current government infrastructure and represent initial steps to shore up obvious weaknesses. They can neither nullify the effects of purposeful efforts to deconstruct the administrative state nor stand in the place of careful oversight by elected officials. Yet, public attention created through new analytic capacity and modest reform can perhaps protect some of our governance infrastructure before a serious break occurs.

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