

Already Buried and Sinking Fast: Presidential Nominees and Inquiry

Nothing challenges a new president's team more than its need to fill out the executive. The White House 2001 Project played a significant role in this aspect of the presidential transition. Its White House Interview Program provided useful information gleaned from the rarified ranks of White House personnel, and its *Nomination Forms Online* Program detailed for the first time the exact particulars of the inquiry process. Already well under way by the time the Bush team began planning in 1999, the White House 2001 Project provided the Bush staff with details about two of the five great transition challenges affecting personnel: scale and complexity.¹ Scale would present the Bush team with an organizational challenge—how to cope with the numbers flooding in? Complexity presented them with a managerial problem—how could they govern the process, especially its burdensome and intrusive inquiry?

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This paper describes the Bush team's response to these challenges. It outlines the plans they made; in particular, their response to managing inquiry. During the past year, managing inquiry has become the object of reform efforts²: Several reforms of the inquiry process have surfaced, including two separate changes taken up by the White House and at least one attempt to modify statutes.

Scale

The Texas governor's appointments office maintains a database on potential nominees. As the country's second largest state, Texas's operation represents something as close to the "major leagues" as governing goes in America. According to the governor's former appointments director, Clay Johnson, that database carried 2,500 names. In the 24-hour period following presidential election day, a new president's team typically receives 10,000 applications for presidential appointments: in one day, more than four times the total Texas volume. By the end of the truncated presidential transition, the George W. Bush White House carried some 60,000 applica-

tions—*twenty-four* times their previous experience!

To handle scale, the Bush planners focused on candidate assessment. In particular, early on in the transition planning, well in advance of their convention, they decided on new technologies for handling the staggering flow. The Clinton transition team had relied on a "labor intensive" plan, recruiting hordes of professional head-hunters working as volunteers, backed up by a sizable support staff. These volunteers recruited and then vetted candidates relying on a record-keeping system that necessitated scanning hard copy resumes. That operation did not translate into the White House, as the sizable transition staff shrank to the small number permitted. In addition, relying on the untried technology of transforming optical images into text, the Clinton team fell hopelessly behind, at one point in the transition, simply throwing out 3,000 applications sitting in its backlog in a frustrated effort to "catch up."

The Bush team opted for a more capital-intensive effort, relying on applicants entering initial resumes on a website that automatically fed the transition team's database. This approach reduced the need for a large transition staff, relying instead on a staff similar in size to what they would have when in office. This easily accumulated database also allowed them to ignore patrons and references in some instances, searching instead for characteristics like race, region, education, or special skills. According to Clay Johnson, director of presidential personnel, the Bush White House has used this database to fill some jobs by simply searching for appropriate candidates from those applications that have "come in over the transom." This electronic and capital-intensive approach has produced a database of around 70,000 entries. As such, it constitutes a genuinely effective effort at addressing scale.³

Complexity

Soon after beginning their work in late 1999, the Bush transition planners began to appreciate the difficulties facing presidential nominees. Of course, the Clinton nominations had suffered through a wide variety of obstacles documented by observers. Through further study and through discussions with White House

Table 1
Asset Values Found on SF-278 Financial Disclosure Statement

Place a value on assets owned by spouse or dependent children up to "over \$1,000,000." For assets owned by the nominee, place value on asset up through "over \$50,000,000."	* \$1,001–\$15,000
	* \$15,001–\$50,000
	* \$50,001–\$100,000
	* \$100,001–\$250,000
	* \$250,001–\$500,000
	* \$500,001–\$1,000,000
	* Over \$1,000,000
	* \$1,000,001–\$5,000,000
	* \$5,000,001–\$25,000,000
	* \$25,000,001–\$50,000,000
	* Over \$50,000,000

2001, the Bush team became more familiar with the problems. While some seemed unavoidable, e.g., exposure to corrosive Washington partisanship that slowed confirmation, others such as the irrational complexity of nominee inquiry appeared reparable.

For example, the sheer number of inquiries presidential nominees must face falls into this last category. In filing forms, nominees must provide information on several topics. The inquiries unnecessarily invade a nominee's privacy and often require information that plays no significant role in determining nominee qualifications. Two of the most recent studies on the appointments process, from the Century Fund's Task Force and from the Presidential Appointees Initiative, have called for finding ways to restrain the intrusiveness and diminish the burdens of inquiry.

The problem of intrusive inquiry seems obvious (Light and Thomas 2001). For example, involving information on property, the government asks nominees to reveal not only the general value of properties but also to report those values with unnecessary precision, specifying values in one of *fifteen* ranges, summarizes these categories. A nominee's inventory must draw a distinction between properties worth \$99,999 or \$100,010, for example, as if the change from the previous category to the next reflects a definable increase in conflicts of interest. This approach clearly reflects an assumption that disclosure of these specific values will provide useful information with which to discern an appropriate remedy for any apparent conflicts. On its face, this regulatory assumption seems flawed.⁴

The degree of burden on nominees generated by repetitive questions seems harder to fathom. The principal burden comes from the executive and Congress requesting a wide variety of information in drastically different formats. For example, all observers will assay the nominee's real property when consider-

ing conflicts of interest. The subsequent inquiry presents nominees with a blizzard of questions covering the same topic but requiring tedious reshaping of information from one answer to the next. On real property alone, nominees must muster information over four forms, in three different time periods, designating three separate classes of owners, sorting on at least two separate types of transactions, and, in some cases, indicating values across the 15 distinct categories mentioned earlier. No wonder nominees consider this part of the process "embarrassing," "confusing," or at best "a necessary evil."

Developed by the White House 2001 Project's *Nomination Forms Online* Program, details this burden. It distributes inquiries into three categories defined by how much common information they require. Questions inquiring into the same subject and requiring the same information constitute "identical," or "redundant," inquiries (e.g., "last name"). Those questions concerned with the same subject but which vary information along at least one dimension constitute "similar," or "repetitive," questions. Those questions seeking distinct information represent "non-repetitive," or "unique," questions.⁵

Among the four questionnaires summarizes, including a representative Senate committee questionnaire,⁶ Clinton nominees responded to approximately 233 inquiries. They answered 116 unique questions (those without an analog). They answered another 99 repetitive questions (those with analogs). And they regularly repeated the answers to about 20 redundant questions. Thus, by these estimates, nearly half of the questions Clinton nominees answered have some analog elsewhere while the other half have no analog anywhere.

For current nominees, some recent changes have modified the situation somewhat. Because the Bush White House changed the PDS, nominees answer nearly 30% fewer inquiries. They respond to more identical questions (23), fewer repetitive questions (40), and fewer unique

Table 2
Repetitiveness Among Inquiries*

Administration Type of Inquiry Across Forms	Clinton**		G. W. Bush	
	Number	Percent	Number	Percent
Identical (redundant)	19	8	23	14
Similar (repetitive)	99	42	40	24
Non-Repetitive (unique)	120	50	104	62
Totals	238		167	=29.83

Notes:

*Compiled by author from four executive branch forms and supplements, plus a representative Senate committee of jurisdiction.

**Clinton numbers do not include the SF-86—Immigration Addendum added in October 2000.

questions (104). Thus, the Bush nominees answer only 167 inquiries. These changes appear similar to those recommended to the Bush planners in August, 2000, by the White House 2001 Project, who emphasized reducing the amount of repetitiveness in favor of improved redundancy, generating a total reduction of around 31%.⁷

Reforming Inquiry

While effective, the Bush White House changes to PDS constitute only one of several modifications that the White House 2001 Project and others recommend. Two of these changes are worth noting. First, further reducing the burden on nominees will require that the government develop more redundant inquiries particularly covering financial disclosure and legal entanglements—the two subjects areas in which questions trend towards repetitiveness. One simple, effective change would substitute the SF-278 report for the net worth statement required by almost all Senate committees. While net worth provides information that identifies insolvency, that condition constitutes only one potential conflict of interest by

comparison with the many more clearly captured on the SF278.

Second, under a statutory mandate,⁸ OGE has recommended changes for the executive's financial disclosure system. Based on its study *Report on the Financial Disclosure Process*, OGE's proposal included a number of recommendations, among them one affording OGE more leeway in setting standards and another collapsing almost all the financial reporting categories. If enacted by Congress, the reporting recommendations would reduce intrusiveness. The failure of OGE to support further reforms (e.g., substitution of the SF278 for net worth or a unified Senate questionnaire) underscores the need for the White House to take a more active role in affecting the nominee's situation.

Moreover, the Congress should enact similar legislation instructing the FBI and the White House, respectively, to report on reducing the amount of useless inquiry in the legal arena and on adopting a single form for the executive branch. Planned improvements in redundancy across all executive forms, particularly where the numbers of unique questions about law enforcement seem appropriate.

Notes

1. The five transition challenges: pace, scale, complexity, scrutiny, and focus.

2. See Sullivan 2001a, 2001b, 2001d.

3. Clay Johnson, interview by Terry Sullivan, White House Interview Project, 26 September 2001.

4. See 5 U.S.C., Appendix §102(a)(1)-(3) for SF278's statutory basis. The use of narrowly defined amounts rests on a "principal/agent" theory of control inherent to the legislative branch. An elected representative avoids conflicts of interests by anticipating the adverse reaction of an aroused and informed public who must, in turn, judge and vote on the representative's qualifications. Disclosing with such precision, therefore, acts as a deterrent to potentially undesirable behavior.

Yet, presidential nominees face a different situation. They come into government from the private world where they may not have lived in anticipation of governing. They cannot set their past behavior in response to future restrictions they could not properly anticipate. Thus, they enter public service with likely conflicts of interests inadvertently acquired. In response, the government must find a resolution rather

than a deterrent for these extant conflicts. For the purposes of resolution, then, detailed figures provide no particular guidance because they do not necessarily provide any useful information about the nature of potential resolutions. See Sullivan 2001b.

5. The typical distinction relies on analysis developed in programming the *Nomination Forms Online* software and uses the degree to which a question required no changes (redundant) or minor changes (repetitive) in common information or if the information required to answer a question had no connections to other questions (unique). See Sullivan 2001c.

6. The analysis uses the Commerce Committee during the Clinton administration and the Select Committee on Intelligence during the Bush administration.

7. See Sullivan 2001e. Drastic reductions among the unique questions seems unlikely as nearly 60% of the unique questions come from the national security questionnaire.

8. Issued pursuant to Public Law 106-293, the Presidential Transition Act of 2000.

References

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