The Department of Homeland Security: The Institutional Road to Cabinet Status

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Prepared for the Woodrow Wilson International Center for Scholars Congress Project Seminar on *Congress and Homeland Security.*

March 7, 2003
3:00-5:00 pm

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Nine days after the terrorist attacks on New York and Washington, Bush announced the creation of the Office of Homeland Security (OHS) to a joint session of Congress. Bush tapped Pennsylvania Governor Tom Ridge to head the new White House office. Although the choice of Ridge as OHS head was uniformly praised, the placement of the new office within the White House drew immediate criticism from members of Congress. If instead Ridge had his own executive branch department, they argued, he could demand accountability from federal bureaucracies through budget control.

Although members of Congress may have been upset with the placement of OHS within the Executive Office of the President, the political science community was hardly shocked. Given the theoretical work of Terry Moe and others (Howell and Lewis 2002; Zegart 1999; Moe and Wilson 1994; and Moe 1989), political scientists expect presidents to use their administrative powers to establish agencies that are insulated from Congressional control. Bush's decisions to create OHS via executive order and to locate the office within the White House fit with this general pattern. Given the relative heterogeneity of member preferences (Howell and Lewis 2002) and control of the House and Senate by different parties (Binder 2003), the president's use of his administrative authority was expected. Insulating control of the new office from congressional interference made sense given potential disagreement with its congressional overseers.

Despite repeated Congressional criticism, the Bush administration continued until April of 2002 to insist that an independent Department of Homeland Security was unnecessary and would divert attention away from the war on terrorism. In June 2002, President Bush reversed his position and called for the creation of an independent Department of Homeland Security (DHS). The President and his allies gave a number of speeches promoting the DHS and challenging Congress to act quickly. In the fall of 2002, Democratic resistance to the DHS in the form Bush proposed became a campaign theme in a number of competitive congressional races. After assuming control of the Senate in the midterm elections in 2002, Republican leaders pushed through the bill establishing the DHS. Bush's reversal contradicts the political science community's understanding that Presidents seek the autonomy that they gain by using their executive authority.

Although political scientists saw Bush's initial proposal as a reflection of his administration's desire to restore the executive-legislative power balance in favor of the executive branch, political commentators have routinely portrayed the struggle to create the DHS as a partisan political battle. Congressional criticism of Bush's initial decision to forgo a department for a White House office, Bush's eventual decision to embrace the creation of a department that he initially resisted, and the president's skill at transforming DHS into an electoral issue have been viewed through the lens of partisan politics. According to this view, Bush's decision to embrace the creation of DHS was little more than an attempt to take off the table an issue used by Democrats seeking political traction. Commentators accused the administration of political maneuvering, calling the

reorganization the "Department of Damage Control"[1] and claiming that "politics…triumph[ed] over policy."[2]

We argue that neither the Moe view of agency creation nor the alternative partisan portrait accurately captures the politics of creating DHS. Instead, DHS followed an inevitable path that had its origins in the institutionalized struggle between the executive and legislative branches. Initially, President Bush wanted to locate OHS within the White House as a vehicle for ensuring its autonomy from congressional interference. However, Bush soon learned that the price of this autonomy was the effectiveness of the office. As a result, he switched gears and advocated the establishment of a department that would be responsive to both Congress and the White House. This portrait is consistent with both DHS's legislative history and the history of other presidential initiatives.

The Creation of the Department of Homeland Security

In reaction to the Bush administration's decision to locate OHS within the White House, members of Congress immediately began to criticize the president's decision. Indeed, immediately after President Bush's September 20, 2001 address to Congress, Sen. Joseph Lieberman (D-CT) and Rep. William M. "Mac" Thornberry (R-TX) both claimed that Ridge needed the "budget and authority…to get the job done,"[3] implying that Bush's placement of the OHS in the White House was inadequate. Likewise, Ellen

[1] Marshall Wittmann in Hines, Cragg, "Maybe Osama will choke on red tape." *Houston Chronicle*. 9 July 2002. Outlook, 2.
[2] Andrade, Juan, "Bureaucracy can't fight terror." *Chicago Sun-Times*. 5 July 2002. Editorial, 39.
[3] Graham, Bradley and Eric Pianin, "Ridge is Tapped to Head Homeland Security Office." *Washington Post*. 21 Sept 2001. A01.

Tauscher (D-CA) insisted that, "America's homeland security should not be overseen in an office buried within the White House, leaving Ridge to wade his way through the current bureaucratic morass where he risks losing critical time and energy."[4]

The Bush administration countered that Ridge had the authority he needed because of his access to the president. On several occasions, Bush spokespersons detailed Ridge's unprecedented access to the president, including three or more meetings per day.[5] Having the OHS in the White House allowed Ridge to bypass bureaucracy and Congress, the administration argued, in order to respond to terrorism more efficiently. If, instead, Ridge were forced to respond directly to Congress, OMB Director Mitch Daniels argued that the war on terrorism would be conducted "by a committee of 535 people,"[6] and not the president.

The White House was making a strong assertion about the separation of branches: it is the executive's prerogative to provide for national security in a time of crisis. This was not a haphazard assertion, but was used explicitly in the administration's arguments for keeping Ridge's office within the White House. Ridge acknowledged early on that the controversy about his placement had to do with a "constitutional tension… a separation of powers issue."[7] When congressional committees tried to force Ridge to testify, White House Press Secretary Ari Fleischer framed the fight in terms of an institutional power struggle: "While the information is flowing, and flowing freely, from the executive to the legislature, sometimes it's never enough for a legislature."[8]

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[4] Tauscher, Ellen. 2001. "Time for Homeland Security Agency." *Delta Crier.* 25 November 2001.
[5] Allen, Mike and Eric Pianin, "Ridge Carries Message on Anthrax." *Washington Post.* 25 Oct 2001. A04.
[6] Morgan, Dan, "Senate, White House Tussle Over Homeland Spending." *Washington Post.* 6 Dec 2001. A24.
[7] Seattle Times News Service, "War on Terrorism Notebook." *Seattle Times.* 25 March 2002. A6.
[8] Milbank, Dana, "Congress, White House Fight Over Ridge Status." *Washington Post.* 21 March 2002. A33.

Congressmen were quick to recognize the implied institutional challenge, and they decried what they viewed as an unconstitutional usurpation of power by the executive. Rep. Ernest J. Istook Jr. (R-OK) argued that his conference was uncomfortable with Ridge "express[ing] major responsibilities under an executive order and then be[ing] exempted from accountability. I see [the issue] as respecting the Constitution." Sen. Robert C. Byrd (D-WV) took the argument a step further, claiming that Bush was "trying to set up an adjunct to the real government that is going to be outside of congressional scrutiny."[9]

Congressional criticism of locating OHS within the White House spanned the ideological and partisan spectrum.[10] The Republican criticism is remarkable because those same members were planning to ally themselves with the popular president in the fall elections. They had to perform the politically dangerous balancing act of criticizing one part of the president's homeland security policy while not appearing to put themselves at odds with Bush's overall security plan. Of all the Republican critics, this balance was most precarious for Rep. Saxby Chambliss (R-GA), whose central campaign issue was his support for Bush's homeland security plan. Chambliss challenged Sen. Max Cleland, the head of the Veterans' Affairs Committee who lost three limbs in Vietnam. Cleland had opposed a provision in Bush's Department of Homeland Security plan that weakened labor unions' rights. Cleland ran commercials defending his record, showing that he had voted with Bush consistently on many issues, including homeland security. Bush made several trips to Georgia on behalf of Chambliss, and in the end it seems that

[9] *Ibid.*
[10] On the left, prominent critics of locating OHS within the White House were Tom Daschle (D-SD), and Dennis Kucinich (D-OH). On the right, prominent critics included Ernest Istook (R-OK) and MacThormberry (R-TX).

Chambliss was able to tie himself effectively to Bush, and particularly the popular war on terrorism. If it were Bush's popularity and Cleland's homeland security criticism that put Chambliss in office, then in retrospect Chambliss' criticism of the OHS was risky. His willingness to be a lead critic of Bush's placement of Ridge shows the strong allegiance that he had to congressional accountability.

Chambliss is one of many conservative House members to criticize Bush on this high-profile issue. The repeated criticism from the left and the right threatened to make Bush appear extreme in his control of homeland security. It is doubtful, however, that the Bush administration felt threatened by Congress' public relations war. Throughout the entire battle with Congress, Bush's approval ratings fluctuated between 82 and 74 percent.[11] Even after Democrats criticized Bush's proposal because of its limits on labor rights, 72 percent of the public backed the plan.[12]

A more effective way that Congress responded to the institutional challenge was through the use of institutional pressure. If the White House were overreaching its constitutional powers, then there were mechanisms the legislature could use to check the executive. One of the most effective checks is Congress' prerogative to control spending. Byrd, chairman of the Senate Appropriations Committee, used this check to force the White House to accept congressional accountability by initiating a six-month long budget battle.

The battle started several weeks after Ridge became head of OHS. Ridge and Daniels had been coordinating closely in order to balance security needs with fiscal

[11] Harwood, John, "Bush Maintains Wartime Support with 82% Approval Rating in Poll." *Wall Street Journal.* 24 Jan 2002. A20. and Kiefer, Francine, "Mideast crisis dents Bush's record-high approval ratings." *Christian Science Monitor.* 17 April 2002.
[12] Keen, Judy, "U.S. Supports Security Proposal." *USA Today*. 10 June 2002. 1A.

restraint. The administration had not involved Congress in security decisions at first because, it was argued, determining how much security was needed required intelligence information that must stay in the White House. Ridge and Daniels expected that Congress would accept their budget recommendations because of the extraordinary circumstances. Sen. Byrd was not about to allow the administration such leeway.

Despite pleas from Ridge, Byrd added to Bush's budget requests $7.5 billion in military appropriations and another $7.5 billion for Federal Emergency Management Agency assistance in New York. Even though he had not been privy to security intelligence that could determine which expenditures were necessary, Byrd said "We can't afford to wait…Bin Laden won't wait."[13] Daniels understood that Byrd was adjusting the budget to show "who will lead in this area." Daniels argued that there was, "more than enough money for the next several months. [Congress] should let [the White House] propose the nature, amount and timing of subsequent action, which would then be subject to the give-and-take of Congress."[14] The differences between Byrd and the administration were not driven by different understandings of our national security needs. Instead, Byrd used his power over the appropriations process to advance the institutional interests of the Senate – a cause that has always been important to Senator Byrd.

In March 2002, Byrd again attempted to assert congressional control over homeland security, requesting that Ridge testify. Ridge had not yet testified in front of any committees, instead choosing to meet informally with House and Senate members. The White House rejected Byrd's request, citing the fact that "members of the president's

[13] Clymer, Adam, "Democrats Renew Bid to Increase Security Financing." *New York Times.* 4 Dec 2001. B6.
[14] Morgan.

staff do not ordinarily testify before congressional committees."[15] The Bush administration was technically right, so long as OHS was in the White House; it is a long-standing tradition that the president's top advisors do not testify before Congress. By relying on this argument, the Bush administration only emboldened its congressional critics that wanted Ridge to have his own department and to be accountable to Congress. The battle over homeland security appropriations was only one event that convinced the administration that the price of locating OHS within the Executive Office of the President would be an ineffective office.

Because the new office lacked statutory authority, members of Congress felt comfortable encouraging their traditional bureaucratic allies to resist the initiatives of Ridge and the Office of Homeland Security. In testimony before the Senate Judiciary Committee, Subcommittee on Administrative Oversight and the Courts, Paul Light, a senior scholar at the Brookings Institution, described the problem Ridge was having at OHS: "Much as one can credit Governor Ridge with substantial success in shaping the budgets of the agencies involved in homeland security, his office does not provide the levers that are essential for coordinating, let alone assuring the flow of high-quality information in real time" (2002). In February 2002, Governor Ridge himself admitted that his office was finding it difficult to navigate through bureaucratic roadblocks when he complained in front of the National Emergency Management Association (NEMA) "there is no line of accountability. As you take a look at 21st-century borders, you have got to have somebody in charge."

Spurred on by the administration's unwillingness to cooperate, more members began to pressure Ridge to testify. In response, he agreed to meet with House panels in

[15] Anonymous, "Washington in Brief." *Washington Post.* 15 Mar 2002. A06.

closed sessions, although he still would not testify. Speaking in front of a House panel, whether formally or informally, was a compromise for Ridge. Still, he was able to dictate the terms of such meetings by approaching Republican-led House committees before meeting with the Democrat-controlled Senate. As a sign that the administration was not willing to concede defeat, Ridge's first meeting was with the House Appropriations Committee during the same time that Byrd was conducting a full-scale homeland security meeting in the Senate.[16]

Shortly after Ridge began meeting with House committees, the administration announced that it might agree to the creation of a Department of Homeland Security. It appeared that Ridge was ready to head a new department, remarking, "I embrace [the creation of a department] enthusiastically, but the only way to do it is here – in Congress." In retrospect, however, the announcement was not a hearty endorsement of shared power over homeland security. Daniels' tone was a more accurate reflection of the administration's feeling towards a new department: "Should the review ultimately recommend to the president a different homeland security structure, there is a chance it may resemble Senator Lieberman's bill [which creates a new department]." [17] Although a new department was a possibility, the Bush administration clearly thought itself still in control of homeland security.

The announcement was effective at halting congressional criticism of Ridge's placement in the short term. No new bills that would create a Department of Homeland Security were submitted while legislators waited for Bush to draft his own proposal. Congress waited another month until Bush requested more emergency spending. With no

[16] Miller, Bill, "From Bush Officials, a Hill Overture and a Snub." *Washington Post.* 11 April 2002. A27.

homeland security proposal in sight, Congress reasserted its control over security spending. The Republican-controlled House Appropriations Committee cut the requested budget for the Transportation Security Administration by $400 million, calling the agency "out of control" and "run amok." The White House had asked for the ability to give $100 million to any ally in the war on terror, at the discretion of the Defense Department. The House revised the language, only allowing aid after the approval of the House Appropriations Committee. Rep. John P. Murtha (D-PA) called the revised spending a signal to the Bush administration that only the House can "appropriate the money, and we have the responsibility under the Constitution." Murtha's Republican colleagues agreed in a report that chided the administration for "expect[ing] the committee to recommend large expenditures of public funds without proper justification – even for critical activities."[18] Democrats and Republicans were concerned about the administration's reluctance to work with Congress.

Faced with budget and bureaucratic gridlock, the Bush administration concluded that its best option was to create the new department. Although this was a partial defeat – for six months the White House had argued that a new department would serve Congress, not the president – Bush proposed the Department of Homeland Security on his own terms. The administration's plan, compared to the bills drafted by Lieberman (S. 2452) and Thornberry (H.R. 1158 and H.R. 4660), limited congressional oversight of key departmental activities such as intelligence gathering, labor management and expenditures.

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[17] Becker, Elizabeth, "Bush Is Said to Consider A New Security Department." *New York Times.* 12 April 2002. A16.
[18] Eilperin, Juliet. "House Panel Raises Voice on Spending Bill." *Washington Post.* 10 May 2002. A10.

For example, the Bush plan exempted bureaus of the new department from Freedom of Information Act requirements. Some documents that have to be made public under the current bureaucratic structure would remain classified under the Bush plan. The secretary would appoint an officer, without Senate confirmation, who would write the department's privacy policy and determine its procedures for intelligence sharing. The broad discretion given to a DHS appointee to write intelligence sharing procedures limits congressional input, even though it was Congress that raised the issue of intelligence lapses during its May 2002 hearings. The Bush plan exempted intelligence and investigative employees from federal labor management laws, giving the president extraordinary power to dismiss workers. The plan also granted the administration more control over the hiring of workers, authorizing OMB to change the ranking and selection procedures for the competitive service hiring process.[19]

The Lieberman and Thornberry bills, which had been the most popular plan for creating a new department, did not grant the executive branch such broad powers. It would have given Congress significant oversight ability, instructing the Director of OMB to report regularly on agency spending and "management guidance." The Lieberman/Thornberry bills would have made the executive and legislative branches cooperate when forming homeland security policy, ordering the Secretary of the DHS to present a national security plan to Congress every four years.[20]

Although the plan Bush advocated led to the creation of a cabinet level department, Bush clearly sought the department on terms that would limit the capacity of

[19] *H.R. 5005. Homeland Security Act of 2002.* [introduced in the U.S. House of Representatives; 24 June 2002].
[20] *S. 2452. National Homeland Security and Combating Terrorism Act of 2002.* [introduced in the U.S. Senate; 2 May 2002].

Congress to control the agency and to monitor its activities. The Bush White House staked out a position that tried to both accomplish its goal of executive branch autonomy and would result in an agency with the statutory legitimacy it needed to be effective. Although Democrats fought the issue throughout the fall of 2002, after the devastating electoral results, Democrats capitulated and a slightly modified version of Bush's proposed department was enacted and signed into law.

A Path Well Traveled

The institutional battle between Bush and Congress over the DHS is not unique. So many similar struggles have occurred over new projects or in response to sudden crises that we suggest they form a pattern. When an issue requires immediate attention, presidents have taken the lead, often with the initial support of Congress. Howell and Lewis (2002) suggest this pattern is especially likely when Congress is weak (defined by the relative diversity of its member's policy views), but ideological cohesion is only one of several factors that influence Congress's capacity to act. The character of the issues also matters. Issues that cut across committee jurisdictional boundaries and traditional coalitions are more likely to be difficult for Congress to address than are issues that fit neatly into existing frameworks. Thus, this pattern has held true especially in cases when the policy issue was multi-faceted and cross-jurisdictional, requiring the coordination of numerous agencies and departments. Such complex issues rarely make their way quickly through all three branches of government. The necessity for speed caused by a crisis and the complexity of the issues have led presidents to assert control over these type of issues

without extensive consultation with Congress. Although Congress may at first allow the president to take the lead, over time Congress forces the executive to share authority.

The evolution of the National Aeronautics and Space Administration (NASA), from a presidential-appointed agency to one controlled jointly by congressional committees and the president-fits the pattern well. A rider to the Naval Appropriations Act requested by President Woodrow Wilson created the National Advisory Committee for Aeronautics (NACA), the predecessor to NASA. NACA was granted broad jurisdiction, enabling it to "supervise and direct the scientific study of the problems of flight, with a view to their solution and their application to practical questions." The amendment gave the president unusual control over the committee, allowing him to appoint its twelve members without confirmation, and giving him a veto on all rules and regulations related to the committee's operation.[21]

A decade later as attention over flight technology increased, members of Congress began to call for the creation of a Department of the Air. The president's appointees on NACA advocated for a Bureau of Air Commerce within the Department of Commerce instead. It was thought that the committee could maintain tighter control of flight research if the creation of a congressionally-accountable new department were prevented.[22]

NACA continued to operate as an advisory committee to the president until the Sputnik crises of the late 1950s. In 1957, the USSR beat the US to space when it launched Sputnik I, creating fear that the American space program had fallen behind the Soviets. President Eisenhower planned a series of speeches addressing the Sputnik launch which would have outlined a moderate strategy towards space exploration. Eisenhower

[21] Levine, Arthur L., *The Future of the U.S. Space Program.* New York: Praeger Publishers, 1975. 14.

was concerned about the cost of going to space, claiming that he did not want to "hock [his] jewels" for a "stunt."[23] Before Eisenhower began the series, Sputnik II was launched and politicians and pundits began to wonder publicly whether the Soviets would use their advantage in space for military purposes. Eisenhower responded to the perceived emergency by appointing MIT's James R. Killian as a special assistant for space and technology. Killian was given significant control over the National Science Foundation and NACA so that Eisenhower could consolidate control over the space program. The White House argued that if the president were held responsible for the space program, he would need the ability to hire and fire one individual who had the power to shape space policy.[24]

Within a year, the White House proposed the creation of NASA headed by one presidentially-appointed administrator. NACA was replaced by a space policy board that was appointed and chaired by the president. Unlike NACA, NASA was given a significant budget which it could spend in outsourced contracts for hardware, systems and research and development. Outsourcing had the potential to limit Congress' ability to monitor NASA's expenditures. The space program reorganization included a coordinating committee between NASA and the Department of Defense that was charged with negotiating jurisdictional disputes. When the committee could not come to a consensus, the president was given the extraordinary power to decide jurisdiction, without the approval of Congress.[25]

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[22] Levine 17.
[23] Bechloss, Michael R., "Kennedy and the Decision to Go to the Moon," *Spaceflight and the Myth of Presidential Leadership.* Eds. Roger D. Launius and Howard E. McCurdy. Chicago: Univ. of Illinois, 1997. 53.
[24] Levine 37-40.
[25] Levine 41, 48-9.

The final version of the bill included many provisions that restricted congressional accountability, allowing the White House to take the lead in a time of national emergency. But a year later, then-Senator Lyndon B. Johnson attached what became known as the "Johnson amendment" to the Space Act. Johnson mandated that NASA come to Congress for appropriations reauthorization every year. Ironically, the annual reauthorization brought with it more stringent agency reviews and congressional hearings that would hurt Johnson's space policy when he occupied the White House.

At first, the Kennedy-Johnson administration was able to implement a more aggressive space policy than Eisenhower because of the ability to hire and fire the NASA administrator. President-elect Kennedy commissioned a top advisor, Jerome Wiesner, to write recommendations for the administration's space policy. Wiesner concluded that Kennedy should continue many of Eisenhower's policies because of the questionable benefits of space travel. Kennedy rejected Wiesner's recommendations on the grounds that the space program may be important to security, and at least had symbolic value in the US's rivalry with the USSR. Kennedy chose James E. Webb, a well-known advocate for an aggressive space program, as a policy advisor and later as the NASA administrator.

Webb testified to Congress that the US's position as a world power was dependent upon travel to space. With another crisis at hand, Kennedy requested $125.7 million from Congress for research on boosters that might send an American to Mars. Congress appropriated the requested amount even though Kennedy said that he would not decide on whether to pursue a Mars project for another year. In effect, Congress gave NASA funding without knowing to what use the money would be put.[26]

[26] Bechloss 54-55.

Congress' tolerance of presidentially-led spending did have limits. After the Bay of Pigs fiasco, Kennedy searched for a policy victory that would restore confidence in his administration. He tasked Johnson with beating the Soviets to the moon. NASA scientist Wernher von Braun told Johnson that he did "not believe that [the US] can win this race unless we take at least some measures which thus far have been considered acceptable only in times of a national emergency," including intelligence gathering and increased funding.[27] Because of his own amendment to the Space Act, Johnson was forced to lobby Congress extensively for NASA resources.

Congress provided the White House with its requested funding, but only after Kennedy's second state-of-the-union address in which he described the "urgent national need" of sending a man to the moon, and only with more congressional accountability.[28] Within two decades, seven congressional committees and subcommittees claimed jurisdiction over NASA.[29]

Conclusion

Forty years ago, Richard Neustadt (1960) argued that presidents who seek to utilize their executive authority are bound to fail. Although Neustadt recognized that technically statutory and constitutional ambiguity created numerous opportunities for presidents to act unilaterally, such actions took a steep political toll on presidents. Although Dickinson (1997) and a few others have sought to defend Neustadt, Moe and

[27] Bechloss 58.
[28] Bechloss 60.
[29] Ragsdale, Lyn, "Politics Not Science: The U.S. Space Program in the Reagan and Bush Years." *Spaceflight and the Myth of Presidential Leadership.* Eds. Roger D. Launius and Howard E. McCurdy. Chicago: Univ. of Illinois, 1997. 141.

his protégés have challenged the conventional view of presidential power offered by Neustadt. They have made the case that unilateral power is one of the most important sources of presidential power. Evidence of this has largely been in the form of demonstrating that presidents routinely attempt to accomplish their policy objectives via their executive authority.

President Bush's initial decision to locate OHS within the Executive Office of the President clearly fits this mode. Likewise, President Bush has attempted to use his executive authority to accomplish many of his most important policy initiatives. One of Bush's central campaign issues was his promise to create a partnership between government and religious organizations. Bush increased his support among social conservatives by promising to end what had been perceived as unfair tax and federal grant policies towards faith-based groups that provided social services. Soon after coming into office, Bush signed an executive order that created the White House Office of Faith-Based and Community Initiatives."[30]

Again by executive order, Bush created faith-based centers in five departments: Justice, Education, Labor, Health and Human Services, and Housing and Urban Development. These centers were not approved by Congress, yet had the potential to make major changes in departmental policy and regulations. The centers may appear to serve merely as advocates for faith-based organizations within each department because they are granted powers to "conduct…department-wide audits to identify all existing barriers to the participation of faith-based and other community organizations," and to

[30] The White House Office of Faith-Based and Community Initiatives. "Faith-Based and Community Initiatives." <http://www.whitehouse.gov/government/fbci/mission.html>

"propose initiatives to remove barriers."[31] Conducting audits and proposing initiatives may pressure the departments to change, but those powers cannot mandate change without an accompanying mandate from Congress. However, the order also requires the centers to create performance reviews whereby the centers measure their respective department's progress towards objectives created by the centers. In effect, the centers have the power to send departmental report cards to the president, which likely creates pressure within the departments to follow the centers' recommendations.

Likewise, Bush created the USA Freedom Corps office to promote community service. Community service, particularly mentoring, was a theme in Bush's campaign that he reiterated during the 2002 State of the Union Address, calling on all Americans to give two years of their lives for the service of others. The USA Freedom Corps office in the White House functions to "expand and strengthen" other federal service organizations such as the Peace Corps and Americorps. The USA Freedom Corps actually incorporates the Senior Corps (an existing service organization that includes the long-time Retired and Senior Volunteer Program, Foster Grandparents and Senior Companions), although Senior Corps continues to be administered by the National and Community Service Corporation, a similar entity created by President Clinton.

By establishing offices for both his faith based initiatives and for the "Freedom Corps" within the Executive Office of the President and by trying to give this offices authority over existing federal programs, Bush has followed a classic pattern for modern presidents. It is a pattern that is consistent with his early homeland security initiatives, and is consistent with the claims by Moe and others about presidents' ability to act

[31] Office of the Press Secretary. "Agency Responsibilities with Respect to Faith-Based and Community Initiatives." 29 Jan. 2001. <http://www.whitehouse.gov/news/releases/2001/01/20010129-3.html>

unilaterally. Although presidents may prefer the ease associated with creating programs and offices within the White House, such a move cannot ensure the effectiveness of the program or office. The origins of the Department of Homeland Security (as well as the National Aeronautics and Space Administration), reinforces Neustadt's lesson from over forty years ago: the exercise of unilateral power cannot match the president's power of persuasion. Institutional conflicts spawned by the separation of powers continue to limit presidential authority to create, manage, and control the executive branch. Even the most popular of presidents inevitably face structural constraints from Congress when they attempt to create new executive institutions.

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