

Testimony



**Statement of
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Excellence in Government
before the
Committee on Governmental Affairs
United States Senate**

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Mr. Chairman, I want to thank you and the other members of the committee for the opportunity to be with you today to talk about the state of the presidential appointments process.

From my vantage point as the head of an organization whose mission is excellence in government, I have to say that the state of the appointments process is far from excellent. In fact, it is going in the wrong direction in terms of the time it takes for appointees to get through it. It takes a toll on many highly qualified people who sometimes unknowingly become pawns in complicated and often obscure political games. It has a dampening effect on attracting excellent people around the country to government service. For these reasons, the process has aptly been called an obstacle course.

Mr. Chairman, I know you and the other members of the committee are concerned about public trust in government, which today is less than half of what it was in the early 1960s. An appointments process that gets well qualified people on the job in a reasonable period of time to manage the public's business—and does so in a professional and respectful manner—will go a long way toward restoring confidence in government. It will also encourage citizens around the country to take time out from their private pursuits to serve in government.

In the early 1960s, it took an average of about two and a half months to fill presidentially appointed positions. The average time has increased to more than eight months in the past two administrations. If we can return to the two and a half month time frame of the sixties, perhaps we can also move

toward that period's higher level of trust in government—76 percent in 1964, compared to 30 percent in 2000.

I congratulate you for focusing on these problems and seeking to improve the presidential appointments process. You and your colleagues also deserve praise for your work in the enactment of the Presidential Transition Act of 2000. One of that Act's most important provisions is its requirement that the Office of Government Ethics recommend ways to improve the appointments process, including streamlining its financial disclosure requirements.

As you well understand, the problems of the process are not a partisan issue. Nor are they new problems. Over recent years, organizations and individuals too numerous to name here have turned their expert and thoughtful attention to why this situation exists and what should and can be done about it. Representative of these efforts are the Transition to Governing Project, begun in 1999 and co-chaired by my panel colleague, Norman Ornstein of the American Enterprise Institute; the Presidential Appointee Initiative of the Brookings Institution, also launched in 1999; and the activities of my own organization, the Council for Excellence in Government, going back more than a decade. These activities include, most recently, the development of *A Survivor's Guide for Presidential Nominees* in collaboration with the Presidential Appointee Initiative. We have been pleased to partner with the PAI, whose research and insight have now set the stage for reform of the appointments process. We have also been pleased to partner with the Center for the Study of the Presidency in exploring barriers to public service.

This recent work builds upon a steady flow of analyses, conferences, reports, and books over the last several years, many with detailed recommendations. Just a partial list of works on these subjects published over the last decade includes:

- The 1990 *Report of the President's Commission on the Federal Appointments Process*.
- The 1993 report of the American Bar Association's Committee on Government Standards, entitled *Keeping Faith: Government Ethics and Government Ethics Regulation*.

- The 20th Century Fund's *Obstacle Course*, published in 1996.
- Two other publications of the Council for Excellence in Government—*Ethical Principles for Public Servants*, an effort led by the late Elliot Richardson; and the *1997 Prune Book*, which discusses the appointments process and its problems at length.

The striking characteristic of this body of work is its bipartisan consensus, which spans the ideological spectrum about the nature of the problem and possible solutions.

In advance of my talking to you today, I polled the 650 Principals of the Council for their views of the appointments process and comments about their own experiences as presidential nominees and their service in government. I would like to share with you just a few representative excerpts from their responses.

- Too long, too expensive, too often inappropriate, too intrusive. Yes, I'd do it again, though with grave doubts about delays, uncertainties, and extraneous "games."
- The larger problem was the length of time between nomination and confirmation. I waited six months, even though there was no opposition to my confirmation. Even with all my complaints on the process, I would have gone through it again even if the wait were much longer.
- I would absolutely do it again, because the challenges and psychological rewards of public service are not matched anywhere.
- Rather than being lauded for their willingness to serve and examined on the basis of their real qualifications, nominees are instead treated as suspects. Despite my comments, I would not hesitate to serve again.
- Public service is immensely rewarding; I'd rank it (at the top on a scale of one to five). But I wouldn't do it again, to a substantial extent because the nomination/confirmation process is dispiriting, demeaning, and exhausting.
- The people, the issues, the engagement in serious matters

and the opportunity to serve made it a great experience. I did go through the process a second time in order to serve again, but having seen what now happens, I'm not sure I would do it again.

- Government service is a unique opportunity to contribute and make a difference. I would go through the process again-even as it is-for the right job.

Mr. Chairman, let me remind you that the authors of these comments have all experienced the appointments process at first hand. What came through in their responses was not only war stories and suggestions for improvement. They are also saying strongly that their time in government was the best, or one of the best, experiences of their careers. And though some had some hesitancy, most said they would do it again.

These are intelligent, skilled, and capable men and women. The country needs their kinds of talent to manage the national agenda effectively and get results. It is truly a strength of this democracy that people of their caliber are willing to commit and recommit themselves to public service.

Can we count on this indefinitely? I don't think so. The worse the process becomes, the less response we can expect from gifted people throughout the country to the great challenge of appointed service.

Mr. Chairman, what we need now is the leadership to do what we know is necessary to improve the presidential appointments process:

- We need a system that judges nominees on their qualifications for the jobs they are being asked to do.
- The financial disclosure and ethics regulations need to be streamlined and refocused on promoting public service as a public trust—not creating a stranglehold of regulations and restrictions in a futile attempt to legislate ethical behavior. I am attaching to my testimony a copy of a letter with recommendations on this point, sent recently to Amy Comstock, the director of the Office of Government Ethics. Joining me in signing the letter were David Abshire, President of the Center for the Study of the Presidency; Sally Katzen, former Chair, Committee on Government Standards, American Bar

Association; and Boyden Gray, White House Counsel in the first Bush Administration. The purpose of the letter was to assist the OGE director in preparing the recommendations mandated by the Transition Act of 2000.

- The Senate should work together with the executive branch to streamline, to shorten, and in some cases, to combine their paperwork and investigative processes for nominees. The piles of paperwork potential nominees must complete includes requests for specific information stretching back over years that almost anyone would find hard to assemble-such as trips outside the country or every financial contribution made to parties and candidates.
- The management of the vetting and clearance of prospective nominations in the Executive Branch needs re-engineering to expedite the process and keep nominees informed every step of the way. We have all seen the speed with which administrations get their Cabinet choices processed and nominated. That's good. But that speed usually slows to a snail's pace or worse for the hundreds of sub cabinet nominees who follow. While the process creeps forward, many nominees don't have a clue about what is going on. And while they wait, those new Cabinet officers must run their agencies without them.
- The FBI's scrutiny of nominees should be revised. The FBI should limit full-field investigations which can take months to individuals tapped for national security and other sensitive positions and use shorter background checks for other appointees.
- Finally, the Senate and the executive branch should agree on principles that will govern the confirmation phase of the appointment process. Among the objectives should be the timely handling of nominations, with a commitment to vote them up or down within a reasonable period, with 90 days as a target. The Senate should agree to limit holds on nominations, both in purpose only to gather information on nominees and in time. It should take steps to protect raw information gathered by the FBI that is often unsourced and

unverified. Serious consideration should go to reducing the number of appointees requiring Senate confirmation.

In short, Mr. Chairman, the Senate and the executive branch share grave responsibilities for the presidential appointments system. They are responsibilities assigned by the Constitution. Carrying them out effectively and expeditiously is fundamental to the health of our democracy.

Thank you again, Mr. Chairman and the other members of the committee, for your leadership to ensure that the insights and proposals you will be hearing this week translate into real reform of the presidential appointments process.

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