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The Contemporary Presidency Reconsidering Presidential Policy Czars

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October 2013 was not a great time to be on the health care reform team in the Obama White House. The rollout for healthcare.gov – the website that had been set up for the federal insurance exchange mandated by the 2010 Patient Protection and Affordable Care Act (aka Obamacare) – had been bungled, with only a few thousand sign-ups a month after the site’s launch. Pressure was growing for the administration to appoint a high-profile manager to coordinate inter-agency efforts to solve the technological problems, improve communications, and implement the immense and complex health care legislation to give Americans plenty of time to sign up for new insurance plans before the December 23, 2013 deadline.

This kind of bureaucratic solution to a major, salient policy challenge was not unique; indeed, it has been so commonplace over the past several decades that the phenomenon has its own term: czar. From managing the war on drugs to overseeing efforts to avert Y2K disaster, czars have long been a preferred response to coordinating policy action that required cooperation across the myriad agencies, offices, and departments of the federal government. Czars have not always been an uncontroversial administrative solution, however, and no president knew more than Barack Obama just how contentious the usage of presidential policy czars really could be. Following his 2008 defeat of Senator John McCain (R-AZ), controversy grew over not only the new

administration's alleged over-reliance on czars but also whether the staffing practice itself was constitutional (Vaughn and Villalobos 2012).

Several years later, the furor over czars in the Obama White House has largely subsided, but the czar phenomenon itself remains cloaked in misunderstanding. In this article I attempt to resolve much of the uncertainty and unease surrounding the role policy czars have played and continue to play in the contemporary presidency. In doing so I first discuss what constitutes a czar. I then examine why czars have been controversial and, in light of that controversy, provide a theoretical explanation for why presidents continue to use them. Finally, I conclude with a discussion of the key factors involved in successful czar policy leadership and how presidents can better utilize their czars, suggestions that can help enhance presidential success while minimizing public controversy.

Defining “Czar”

The term “czar” has been bandied about enough by politicians that it has become accepted shorthand for an influential administration official involved in a central policy area. For example, former George H.W. Bush deputy press secretary Alixe Glen notes a czar is “someone who can run it all. In a town like Washington that has so many fiefdoms and committees with long acronyms, calling someone simply a ‘czar’ gets the point across” (Tausch 1989). Obama Administration spokesman Tommy Vietor sounded a similar refrain as he sought to tame the aforementioned staffing controversy in the administration's early days: “The term ‘czar’ is largely a media creation to make jobs that have existed under multiple administrations sound more exciting. Every president since Nixon has hired smart and qualified people to coordinate between agencies and the White

House” (Markman 2009). This opinion appears to be shared across the ideological spectrum, as Gene Healy (2009) of the libertarian CATO Institute suggests that “... ‘czar’ is a media-coined, catchall term for presidential assistants tasked with coordinating policy on issues that cut across departmental lines” and Bradley Patterson (2009) - whose government service included stints in the Eisenhower, Nixon, and Ford Administrations - has testified that “‘czar’ is not an official government title of anybody; it is a vernacular of executive branch public administration, harking back—in one account—at least to the Coolidge years. It is a label now used loosely hereabouts, especially by the media.”

These examples reinforce the notion that “czar” is evocative of a vague administrative concept, yet the term still lacks a conceptual definition that is both precise and commonly accepted by political practitioners and pundits alike. Indeed, even former czars have trouble with the definition; as former Homeland Security Adviser Fran Townsend once noted: “I’m not sure what a czar is, or what it does” (*Newsmax* 2009). Such uncertainty has led some to decry the meaninglessness of the term, such as law professor Aaron Saiger (2011, 2582), who has written, “In short, whether an official is called a ‘czar’ tells you as much about her formal organizational position as whether she works for a ‘department,’ ‘agency,’ or an ‘administration,’ which is to say, nothing.” Similarly, according to the Congressional Research Service, “For some, the term is being used to quickly convey an appointee’s title (e.g., climate ‘czar’) in shorthand. For others, it is, perhaps, being used to convey a sense that power is being centralized in the White House or certain entities. When used in the political-science literature, the term generally refers to White House policy coordination or an intense focus by the appointee on an issue of great magnitude” (Schwemle et al. 2010, 1).

In what stands as the most thorough examination of the legal challenges potentially posed by czars, Mitchel Sollenberger and Mark Rozell (2012, 7) define a czar as “an executive branch official who is not confirmed by the Senate and is exercising final decision-making authority that often entails controlling budgetary programs, administering/coordinating a policy area, or otherwise promulgating rules, regulations, and orders that bind either government officials and/or the private sector.”¹ This is a thoughtful and laudable attempt to operationalize an informal and contested administrative concept. However, this article resists subscribing to that approach, however, and instead argues that in their attempts to formalize the term czar, Sollenberger and Rozell have inadvertently stripped the concept of much of its meaning. That is, by hinging their definition on Senate confirmation, Sollenberger and Rozell disqualify several individuals that have been historically referred to as czars. Indeed, many of the individuals that *presidents* have referred to publicly as czars do not qualify for the label under the preceding definitions. For example, the administration official most frequently referred to as a czar – by presidents, other politicians, pundits, and the American people alike – is inarguably the drug czar, today officially known as the Director of the Office of National Drug Control Policy. Sollenberger and Rozell, however, take pains to argue that the drug czar is not an actual czar (and indeed is not one, per their definition). Why? Because since 1989, the drug czar has been subject to Senate confirmation. Although the internal logic of their definition is sound, the fact that it departs so significantly from what presidents themselves apparently believe justifies at least some skepticism about the external validity of their definition.

At the same time, it is imperative to be clear about what *is* meant by “czar” in this

article. This article contends that the most accurate use of the term is when it is applied to members of an administration tasked with coordination responsibilities over a particular policy area, typically one related to a new policy problem or priority that an administration is intent on solving with the full force of the federal government, or at least appearing to do so. Or, as William Howell (2013, 33) notes, “‘Czar’ is political shorthand for a special policy adviser who is appointed by the president, without congressional oversight, for the purposes of coordinating and centralizing the activities of various executive branch offices.” Whether these individuals have received Senate confirmation might often be a helpful indicator, but it is not fundamental to our understanding. Instead, it is function that is central to this definition. Keeping the definitional focus on function rather than confirmation allows greater confidence that subsequent analysis covers this administrative phenomenon’s full range. Further, as czar is a rhetorical construct rather than a legal one, not hinging the definition of czar on confirmation allows greater conceptual consistency between how czars are talked about in the political realm and how they are observed by scholars.

Why Are Czars Controversial?

Debates about what precisely constitutes a czar aside, the central substantive reason czars are controversial concerns the ramifications that presidential reliance on such personnel can have for the constitutional order. Critics argue that czars represent an illegal and even unconstitutional extension of presidential policy making authority that occurs at the expense of Congress. For instance, Representative Steve Scalise (R-LA), the author of legislation to block funding for many of President Obama’s czars, has referred to the policy advisors as “unappointed, unaccountable people who are literally

running a shadow government, heading up these little fiefdoms that nobody can really seem to identify where they are or what they're doing" (Bravender 2011).

Sollenberger and Rozell (2012) provide a particularly compelling argument that certain presidential attempts to delegate authority can violate constitutional provisions included in the Appointments Clause and non-delegation doctrine. They contend that czars constitute a "constitutional aberration" and "a direct violation of the core principles of a system of separation of powers and government accountability" (3) Pointing back to Woodrow Wilson's appointment of Bernard Baruch to help manage the nation's economic mobilization during World War I, they suggest a dangerous precedent was set that established a new executive branch structure that largely alleviated presidents of the Senate confirmation requirement and effectively concentrated power "within the president and his chosen agents" (Sollenberger and Rozell 2012, 51).

Although critics voice concern over the unilateral roots of some offices that are said to be led by czars and others decry apparent violations of the non-delegation doctrine, the primary constitutional complaint concerns the Appointments Clause and the fact that some executive branch officials may have been inappropriately bestowed "substantial policymaking, regulatory or budgetary functions" (Rozell and Sollenberger 2012, 77). The Appointments Clause dictates that the president may nominate "principal" (or "superior") officers that require Senate confirmation;² according to Sollenberger and Rozell, for a presidential appointment to have constitutional fidelity, any executive branch employee who has final authority over program budgets or the ability to promulgate rules, regulations, or any order that binds the government or private sector should require Senate confirmation. Those that do not receive Senate confirmation yet

possess and/or utilize such power—in essence, those who Sollenberger and Rozell define as czars—do so illegally and unconstitutionally.

This case has been made elsewhere in painstaking and persuasive ways; however, it is not the only interpretation of the legal situation concerning czars.³ Other equally learned scholars have observed the same cases as those who are critical of czars and come to different conclusions. For example, according to congressional testimony provided by T.J. Halstead (2009), deputy assistant director of the American Law Division of the Congressional Research Service, “there is no substantial basis upon which it may be argued that the President’s selection and employment of advisers constitutes a fundamental violation of the terms set forth in the Constitution.” Likewise, in his statement to the Senate Judiciary Committee Subcommittee on the Constitution, University of Virginia law professor John Harrison (2009) testified he was “not aware of any so-called ‘Czar’ who lacks the type of appointment needed to authorize that person’s actions.” Going further still, Melanie Marlowe (2012, 150) argues in an essay advocating the unitary executive perspective toward the presidency that there is “nothing unconstitutional” about czars, as they are neither principal nor inferior officers under the appointments clause and thus have no legal authority to abuse in the first place.

Absent legislative or judicial action, one may argue that presidents are free to staff their administrations within the broad guidelines set forth in the Appointments Clause and subsequent relevant legislation.⁴ Legislators such as Representative Scalise have attempted to alter the legal status of certain executive branch officials identified by some as czars, primarily by either defunding them or demanding that all such personnel be answerable to legislative oversight. However, to date, legislators in opposition to

executive branch czars have been unable to reverse or limit presidential appointment powers in such manner—save for one instance that had more to do with the fear of a government shutdown amid a debate over federal spending (Bravender 2011). Even then, the effort to pull funding ended with the positions being left vacant and relocated inside the Domestic Policy Council.

Why are Presidents Using Czars?

Considering the level of controversy czars can evoke, an observer of contemporary presidential politics can reasonably ask, why do presidents persist in using them to manage policy implementation and coordination? I argue that this institutional development is linked to the dynamics of presidential expectations and how presidents have sought to meet those expectations by exerting control over the federal bureaucracy through actions such as politicization and centralization. Noting that expectations far outstrip presidential performance capacity, Terry Moe (1985, 269) argued in a landmark essay that presidents have a strong incentive to adjust their administrative apparatus in such a way that maximizes their control over what John Hart (1995) has called “the presidential branch” and, thus, further enhances the effectiveness of their policy making process. As a result, presidents have embraced two distinct administrative strategies, centralization and politicization, both of which help generate the kind of opportunities presidents need. As administrative phenomena, centralization and politicization are complementary yet quite conceptually distinct (see Rudalevige and Lewis 2005).

According to Andrew Rudalevige (2003, 141), centralization occurs when there is “a shift in functions from the wider executive bureaucracy to the Executive Office of the President, particularly the White House Office itself.” Rudalevige shows how this

practice is linked to the expectations gap, noting that as expectations outstrip capacity, as argued by Moe, presidents must seek to expand their capacity. Further, since the reach of the presidency “is institutionally (and constitutionally) limited, [presidents] act to build and shape what is within their grasp, namely the executive offices and the White House” (Rudalevige 2002, 6). In other words, by bringing government work previously done outside of the auspices of the Executive Office of the President, presidents centralize the work by bringing it within the fold of the presidential branch, with the goal of solidifying control over its operation.

To politicize, on the other hand, refers to staffing practices that prize political and ideological leadership over neutral competence, and frequently takes the form of either layering political appointees over career civil service positions already in existence or replacing career bureaucrats with loyal appointees (see Hecl 1975; Lewis 2005). Just as centralization is consistent with a rational presidential approach to organizational management for the reasons discussed above, politicization marks an attempt by presidents to close the expectations gap by ensuring that the men and women working for them will have the president’s preferences—or at least be more likely to have the same shared preferences—when making engaging in the governing process.

The end result of this centralization and politicization over time has been an expanded institution, increasing the amount of work the presidency was able to produce while simultaneously creating an ever-more complex managerial challenge for the president. Samuel Kernell (1999, 39) reports an illuminating anecdote concerning James Rowe, one of Franklin Delano Roosevelt’s original assistants: when Rowe returned from World War II, “he called a friend in the Truman White House to ask how things had

changed. He recalled later that they had ‘nine people doing what I used to do’ and guessed that ‘nowadays they must have 300 or 400 doing what I used to do.’” This expansion eventually slowed and, to some extent, reversed course following the controversial actions of some of Richard Nixon’s staff members. Indeed, after Nixon, making claims that they would reduce the size of the president’s staff became a predictable presidential trend, with Jimmy Carter, Ronald Reagan, and Bill Clinton all making the promise to do so. Nevertheless, the managerial requirements continued to expand, as did the organizational girth of the presidency; research by George Krause (2004) shows the size and scope of the presidential branch increased more than eight-fold from 1939 to 1997; at the high point in 1961, the increase was almost 13 ½ times the size and scope of what was in place 1939’s nadir.⁵ Furthermore, Krause shows how this personnel growth has actually hampered presidential policy leadership, drawing an inverse correlation between institutional girth and presidential capacity to develop, propose, and enact public policy. The conclusion here is one that suggests the president’s problem, at least when it comes to the balance between management and policy leadership, is one of too much institutional growth resulting in sclerotic policy performance and effectiveness. A major factor in this disjunction has been the frequent absence of high-quality coordination. As the number of individuals and agencies evolve and expand in the presidential branch, it has become increasingly difficult for presidents to muster their administrative troops in efficient and productive ways.

Coordinating the Presidency: The Role of the Czars

As the president attempts to increase the White House’s policy leadership efforts and to convert administrative entities outside of the chief executive’s control into

agencies and organizations populated by the president's political allies and contained within the organizational confines of the Executive Office of the President, the task of managing all this activity and all these active participants becomes enormous. According to James Pfiffner (2009):

The coordination role is the most important role of the White House staff; and talented people are necessary to do the job. That being said, too much centralization and too many White House staffers can impair effective presidential leadership. White House staffers are ambitious people, and may try to use the president's power as their own. Thus the White House staff must be carefully policed and kept on a short leash.

Consensus of the role of czars as coordinators extends across numerous groups, from scholars of politics and the law to government servants, including both former czars and presidents themselves. Pfiffner's (2009) testimony before a Senate Committee on Homeland Security and Governmental Affairs hearing on the subject of czars moved from the theoretical to descriptive of what presidents use czars to do. Pfiffner notes that presidents designate czars to coordinate policymaking across different groups, and that in doing so, czars play essential roles and lift the burden of coordination from the executive, helping to reduce the broad range of options available to presidents to necessary essentials. In a statement before the same hearing, former Pennsylvania Governor and later the nation's first Secretary of Homeland Security Tom Ridge (2009) commented on the fifteen months he spent between those two positions as George W. Bush's Homeland Security czar.⁶ In it, he references his role in coordinating authority, as well as political and legal questions about any efforts he may have made beyond that role.

Commentary from the White House regarding czars echoes this focus on coordination. In a White House blog post pushing back against czar-related criticism, former Obama Administration White House Communications Director Anita Dunn (2009) highlighted the coordinator role of czars as she rejected claims that the positions under attack were inappropriate or even novel. This echoes the focus on coordination by several presidents. For example, in a message explaining why he was vetoing legislation that would create a federal drug czar, Ronald Reagan (1983) noted that the aim of the legislation (The Violent Crime and Drug Enforcement Improvements Act of 1982) was to promote coordination of national drug policy. Later, after the Anti-Drug Abuse Act of 1988 formally created the drug czar position (known formally as director of the Office of National Drug Control Policy), George H.W. Bush announced his first czar, former Reagan-era Secretary of Education William Bennett, in a February 1989 press event and noted the scope of the task to be accomplished, saying that Bennett “has a big assignment—a big one. And a lot of it is coordinative (Bush 1989b).” A month later, in a speech before the National Legislative Conference on the Independent Insurance Agents of America, Bush (1989c) repeated the sentiment as he noted, “When you look at the complexity of the Federal Government and the number of the agencies that are involved in this question of anti-narcotics, it is a massive executive, coordinative job.” Later that fall, Bush (1989a) expanded on the specifics of the task:

One of the roles of the drug czar ... is coordination. And we have had meetings around our Cabinet table to try to cope with bureaucratic competition that exists. I can't tell you we've got it whipped. I can tell you we've made progress. But I think from a management standpoint the drug czar, with the full confidence of the

President, offers the best hope to be able to have us minimize, if not eliminate, the rivalries that sometimes have adversely affected the concerted effort.

A similar emphasis on the coordinative purpose of czars has been made by every subsequent presidential administration. For example, in an April 1993 press conference, Clinton Administration White House Press Secretary Dee Dee Myers (1993) responded to queries about the president's commitment to drug enforcement by highlighting his decision to elevate the drug czar to Cabinet status, before going on to note the job would then entail coordinating drug policy efforts across three different agencies and departments with varying drug-related responsibilities. Later, during the George W. Bush Administration, the president actually interrupted a reporter posing a question about uncertainty over whether the new administration will continue the practice of the preceding administration with respect to having an AIDS czar, saying, "Well, there's going to be a focus on AIDS, and people can apply any title they want. But there's going to be a person in my office who has got the responsibility of coordinating the AIDS policy throughout the Federal Government" (Bush 2001.) Similarly, when pressed for details about the role of the newly named border czar during an interview with Juan Carlos Lopez of CNN En Espanol, Barack Obama (2009) responded:

Well, the goal of the border czar is to help coordinate all the various agencies that fall under the Department of Homeland Security and—so that we are confident that the border patrols are working effectively with ICS, working effectively with our law enforcement agencies. So he's really a coordinator that can be responsible to Secretary Napolitano and, ultimately directly accountable to me.

Four Key Determinants of Czar Success

Czars may be accountable to their presidents, as Obama suggests above, but presidents have their own responsibilities when it comes to ensuring their czars are able to accomplish their assigned missions. Having discussed what czars are and why presidents use them, the question remains: how can presidents utilize these administrators in the most effective way possible? After all, presidents care about outcomes, and the nature of the administrative task that czars are handed is one fraught with complexity and obstacles to the extent that future presidents should consider how they can make their new czars more likely to succeed, rather than optimistically assuming success while attempting to sidestep failure and controversy. In doing so, presidents should consider four key determinants of czar success: clarity, expertise, analysis, and access. Each of these concepts is distinct, but also importantly intertwined. In other words, a president who makes sure to emphasize access and expertise but does not offer clarity or commitment will likely only marginally increase a new czar's chances for success.

Clarity

The first task for any president contemplating the establishment of a new coordinator within their administration is to first determine what precisely it is that they want this new official to do. Without clarity of purpose, any czar will spend their time spinning wheels rather than helping to solve the newly prioritized policy problem that prompted their position. Moreover, if the function of a czar is not clear to the rest of the administration, the new official will have increased difficulty managing across agencies and offices not directly under their control on official organizational flowcharts. In the meantime, outside observers may question the czar's authority, which can lead to

contradictory signals emanating from different administrative surrogates attempting to tamp down criticism.

The experience of the trio of AIDS czars that populated Bill Clinton's administration at different points provides arguably the best cautionary tale about what happens when presidents put forward a new czar without first clarifying their purpose.⁷ Although Clinton was the first president to promise the creation of a czar position on the campaign trail, the support his administration ultimately provided to his AIDS czars indicates that pledge was more about separating his campaign opponent, George H.W. Bush, from potential moderate votes than a sincere interest in creating a robust institutional response to the AIDS epidemic. For instance, Clinton's first AIDS Czar, Kristine Gebbie, would wind up as a symbol of the president's commitment to fighting the disease rather than an actual player in the administration's tentative efforts. Part of this lack of stature was due to limited contact with the president, but commentary surrounding her departure in July 1994 indicated the larger problem: lack of clarity over her position's mission. Indeed, observers noted that a less well defined job had never before been seen, and as her tenure as AIDS czar concluded Gebbie would meet with White House Chief of Staff Leon Panetta about the need to better define her position, initially for her benefit, and later for the benefit of whoever would replace her. Unfortunately, these conversations ultimately proved fruitless and subsequent AIDS czars under not just the Clinton Administration but the Obama Administration as well would labor in situations of uncertainty about the precise nature of their role and authority.

Expertise

Commitment to solving policy problems and clarity about what is needed from an administrative perspective is not enough, however, to ensure a czar's success; the president must also ensure that the person chosen to be czar has the skills and expertise required for the task. Expertise in the issue at hand is tremendously important; without it, a new czar can not only be ill equipped to make good decisions but also suffer from a lack of credibility with key constituencies related to one's new mission. For example, despite an impressive record of public service, Intelligence Czar John Negroponte had little experience dealing with the Intelligence Community prior to taking his position atop it in February 2007. This lack of experience hobbled his legitimacy with groups such as a key organization that represented 9/11 victims' families, the same organization that had proved essential in advancing the legislation that created the National Director of Intelligence position in the first place. Combined with other actions by the Bush Administration that undermined Negroponte's authority, this perception of inexperience in the field hampered him throughout his time as NDI.⁸

Substantive experience alone, however, does not ensure success. Few czars have had as much expertise in their area as Drug Czar Jerome Jaffe, who served as head of the Special Action Office for Drug Abuse from 1971-1973.⁹ Despite exceptional credentials, Jaffe had little managerial experience and proved to be administratively incompetent, consequently allowing his organization to drift in a way that would have reverberations throughout not only the Nixon Administration but through the current state of the War on Drugs, as enforcement-side policies and programs came to dominate treatment-based approaches to the national drug problem, which Jaffe was supposed to be leading.

In both cases, inexperience and lack of expertise led to perceptions of illegitimacy and hampered organizational performance, leading to abrupt ends to each individual's tenure as czar and undermining their respective administrations' abilities to solve the problems with which they were tasked.

Analysis

Once a czar has been selected and announced, it often proves difficult for them to hit the ground running in their new positions. The offices they helm are typically new organizations, and what few staffers they may command usually have been reassigned from other departments with organizational experience and loyalties that may not be fully aligned with the needs and preferences of their new boss. One strategy to allow a czar to satisfy coordination and leadership expectations would be to have them spend a limited period early on analyzing the problem and constructing a national strategy designed to solve it. Doing so not only allows for an opportunity to identify comprehensively what steps need to be taken to solve the problem at hand, but also provides the new czar a change to liaise with other relevant agencies, build relationships with key stakeholders, and assess who in the relevant policy community might be an ally and who might be an obstacle *before* getting to the business of implementation. Heading such a strategic process can also help convey legitimacy on the new czar, particularly in the absence of statutory authority, by providing opportunity for them to build a profile while also receiving feedback from vested interests such as members of Congress, policy activists, and industrial elites who will likely prove instrumental in putting thought into action down the road.

Some of the most notable czar success stories have begun with this type of strategic process. For example, Bill Bennett, the first director of the Office of National Drug Policy, spent the opening 180 days of his new position designing the congressionally mandated national strategy for fighting the war on drugs. This assignment—and the generous yet still limited time frame that went with it—provided two opportunities for Bennett that his immediate predecessors and successors did not have: it gave him a purpose to travel throughout the country seeking input while also advancing arguments in favor of the George H.W. Bush Administration’s goals and also enabled his staff to ground the new national strategy within his own philosophical framework. This combination of an enhanced profile and the ability to shape the policies that would be implemented by his office enabled Bennett to consolidate influence and control in a way few others have. Ironically, Bennett abruptly departed the administration just as the position was transitioning from program design to implementation. His replacement, Florida Governor Bob Martinez, was then thrust into a position of managing another individual’s plan, without the benefit of the relationship-building period Bennett enjoyed.

Additional insight into the value of such a process can be found by the various experiences of George W. Bush’s trio of national security-related czars: Homeland Security Czar Tom Ridge, Intelligence Czar John Negroponte, and War Czar Douglas Lute. Like Bennett, Ridge’s first task was to create a national homeland security strategy, though in this case it was not congressionally mandated. Helming the construction of the new national strategy provided an opportunity for Ridge to shape the institutional structures he would later oversee as the nation’s first Secretary of Homeland

Security. Moreover, it also provided an opportunity for Bush to travel the nation emphasizing the importance of Ridge's mission and increasing the appearance of his influence. Conversely, the experiences of Negroponte and Lute were such that they either never had the opportunity to structure the government's response to the problem that prompted their position or the opportunity they did receive came too late. Negroponte, for example, came into his position after a pair of high-profile commissions studying the intelligence failures involved in the 9/11 terrorist attacks had issued reports containing a litany of reform suggestions, including the establishment of what would become Negroponte's position, the Director of National Intelligence. In other words, Negroponte's selection itself was in response to strategic review work done elsewhere, and the new intelligence czar would instead be thrust into the position of executing plans he did not help originate. General Lute's experience as war czar was different than Negroponte's as intelligence czar, yet equally limiting. Unlike Negroponte, he was given the opportunity to conduct an exhaustive review, in this case of the nation's war-fighting efforts in Afghanistan. However, this opportunity came after Lute had been in his position for nearly one year, and only a few months before the nation would vote for Bush's presidential successor. Further, it would conclude after the 2008 election and only be presented to Bush's National Security Council at one of that group's final meetings during the Bush presidency, and less than eight weeks before Barack Obama's inauguration. Although Obama would surprise many by announcing that Lute would stay on as war czar in the new administration, another strategy review would also be announced, one that Lute was not in charge of leading and which led to reform proposals not in line with his preferences.

Access

After the ability to influence their own mission, a successful czar needs to have the organizational clout to wrangle potentially disinclined officials and implement their (and the president's) preferred policy solutions. This clout derives primarily, if not exclusively, from one access to the president, both real and perceived. With access comes evidence that the czar is speaking with the president's voice. Conversely, a czar who rarely encounters the president is unlikely to be viewed by other administration officials as essential to obey, if not impossible to ignore. The modern presidency is thick with examples of czars who enjoyed this kind of access and those who did not, and a clear pattern concerning their individual impacts underscores the need for presidents to keep their doors and ears open to those they elevate to czar positions. For example, few if any czars have had the access to the president that Energy Czar William Simon had to Richard Nixon.¹⁰ Nixon conveyed authority to Simon on par with that of Albert Speer's role in the Third Reich (Nixon's own unfortunate metaphor), clout that Simon utilized when he decided to over-allocate oil and gas throughout the nation following the energy crisis, a high-risk decision that ultimately paid dividends and was only possible because of Nixon's empowerment.

Simon's experience was in direct contrast to that of the man he replaced as energy czar, former Colorado Governor John Love. Though Love was initially brought into the Nixon Administration to serve as a high-profile bureaucratic response to concerns about the national security consequences of the nation's growing reliance on foreign oil, he never truly gelled with the rest of the administration. His status as an outsider was only reinforced and exacerbated as he proceeded to give unpopular advice to the president. By

the time Simon eclipsed him as Nixon's chief energy policy coordinator in 1973, Love's ability to get the president's attention was at its nadir, and with it his ability to influence meaningfully the administration's response to a wide range of energy-related problems.

Conclusion

As expectations for presidential leadership continue to grow and as complexity of legislation and the federal government continue to leave presidents in need of widespread coordinative assistance, policy czars represent one potentially useful albeit controversial and imperfect solution. With thoughtful dedication to structure and mission, along with a commitment to political transparency, future presidents may be able to utilize policy czars in a way that allows them to accomplish their managerial objectives while minimizing political challenges and perceptions of illegitimacy. Ultimately, for proponents and critics of czars alike, it is in the interest of every American to have a government that functions smoothly and effectively, rather than one where chances for policy success slip away into the cracks and cleavages between its branches and bifurcations. Until Congress takes action to either provide presidents with the level of coordinative support they need or restructure the government in a manner that reduces that need, policy czars represent an opportunity for presidents to meet the heroic expectations they face.

References

- Bravender, Robin. 2011. "House Votes to Overthrow 'Czars'." *Politico*, February 17, 2011. <http://www.politico.com/news/stories/0211/49781.html>
- Bush, George H.W. 1989a. "Remarks and a Question-and-Answer Session at a Luncheon for Regional Editors and Broadcasters." *The Public Papers of the Presidents*, September 15, 1989.
- Bush, George H.W. 1989b. "Remarks and a Question-and-Answer Session With Reporters Prior to a Meeting With William J. Bennett." *The Public Papers of the Presidents*, February 8, 1989.
- Bush, George H.W. 1989c. "Remarks to the National Legislative Conference of the Independent Insurance Agents of America." *The Public Papers of the Presidents*, March 14, 1989
- Bush, George W. 2001. "Remarks at J.C. Nalle Elementary School and an Exchange with Reporters." *The Public Papers of the Presidents*, February 9, 2001.
- Dunn, Anita. 2009. "The Truth About 'Czars'", *The White House Blog*, September 16, 2009. Available online at: <http://www.whitehouse.gov/blog/The-Truth-About-Czars/>.
- Halstead, T.J. 2009. "Examining the History and Legality of Executive Branch 'Czars'." Testimony before the Committee on the Judiciary, Subcommittee on the Constitution, United States Senate, October 6, 2009.
- Harrison, John C. 2009. "Legal Issues Associated With Executive Branch 'Czars'." Testimony before the Committee on the Judiciary, Subcommittee on the Constitution, United States Senate, October 6, 2009.

- Hart, John. 1995. *The Presidential Branch: From Washington to Clinton*, 2nd ed.
Chatham, NJ: Chatham House.
- Healy, Gene. 2009. "Right's Czar Mania is a Distraction," CATO Institute,
September 22, 2009. <http://www.cato.org/publications/commentary/rights-czar-mania-is-distraction>
- Heclo, Hugh. 1975. "OMB and the Presidency – The Problem of Neutral Competence."
Public Interest 38: 80-98.
- Howell, William G. 2013: *Thinking About the Presidency: The Primacy of Power*.
Princeton, NJ: Princeton University Press.
- Kernell, Samuel. 1999. "The Evolution of the White House Staff." In *The Managerial Presidency*, 2nd ed., ed. James P. Pfiffner. College Station, TX: Texas A&M University Press.
- Krause, George A. 2004. "The Secular Decline in Presidential Policy Making: An Organizational Perspective." *Presidential Studies Quarterly* 34 (4): 779-792.
- Lewis, David E. 2005. "Staffing Alone: Unilateral Action and the Politicization of the Executive Office of the President, 1988-2004." *Presidential Studies Quarterly* 35 (3): 496-514.
- Light, Paul C. 2000. "Domestic Policy Making." *Presidential Studies Quarterly* 30 (1): 109-132.
- Markman, Joe. 2009. "Lawmakers Object to Obama's Naming of 'Czars,'" *Los Angeles Times*, September 19, 2009. <http://articles.latimes.com/2009/sep/19/nation/na-obama-czars19>
- Marlowe, Melanie M. 2012. "The Unitary Executive," In *Contending Approaches to the*

- American Presidency*, ed. Michael A. Genovese (Washington, DC: CQ Press): 137-158.
- Moe, Terry M. 1985. "The Politicized Presidency." In *The New Direction in American Politics*, ed. John E. Chubb and Paul E. Peterson. Washington DC: Brookings Institution.
- Myers, Dee Dee. 1993. Press Briefing. The Public Papers of the Presidents, April 28, 1993.
- Newsmax*. 2009. "Obama Administration Snubs Hearing Regarding Legality of White House Czars." *Newsmax.com*, October 6, 2009.
- Obama, Barack. 2009. "Interview With Juan Carlos Lopez of CNN En Espanol." The Public Papers of the Presidents, April 15, 2009.
- Patterson, Bradley H. 1988. *The Ring of Power: The White House Staff and Its Expanding Role in Government*. New York: Basic Books.
- Patterson, Bradley H. 2009. Statements from the Judiciary Subcommittee on the Constitution, Hearing SD-226 on "Examining the History and Legality of Executive Branch 'Czars'," *United States Senate Committee on the Judiciary*, October 6, 2009. <http://judiciary.senate.gov/pdf/10-06-09%20Patterson%20testimony.pdf>
- Pfiffner, James P. 2009. "Presidential Use of White House 'Czars'." Testimony before the Senate Committee on Homeland Security and Governmental Affairs, October 22, 2009.
- Reagan, Ronald. 1983. "Memorandum Returning Without Approval a Bill Concerning

- Contract Services for Drug Dependent Federal Offenders.” The Public Papers of the Presidents, January 14, 1983.
- Ridge, Thomas J. 2009. Testimony before the Senate Committee on Homeland Security and Governmental Affairs. October 22, 2009.
- Rozell, Mark J., and Mitchel A. Sollenberger. 2012. “Obama’s Executive Branch Czars: The Constitutional Controversy and a Legislative Solution.” *Congress & the Presidency* 39 (1): 74-99.
- Rudalevige, Andrew. 2002. *Managing the President’s Program: Presidential Leadership and Legislative Policy Formulation*. Princeton, NJ: Princeton University Press.
- Rudalevige, Andrew. 2003. “Presidential Management and the Politicized Presidency: Reagan and Centralization,” In *Reassessing the Reagan Presidency*, ed. Richard S. Conley. Lanham, MD: University Press of America.
- Rudalevige, Andrew, and David E. Lewis. 2005. “Parsing the Politicized Presidency: Centralization and Politicization as Presidential Strategies for Bureaucratic Control.” Paper presented at the 2005 Annual Meeting of the American Political Science Association, Washington, DC.
- Saiger, Aaron. 2011. “Obama’s ‘Czars’ for Domestic Policy and the Law of the White House Staff.” *Fordham Law Review* 77 (6), p. 2577-2615.
- Schwemle, Barbara L., Todd B. Tatelman, Vivian S. Chu, and Henry B. Hogue. 2010. “The Debate over Selected Presidential Assistants and Advisors.” Congressional Research Service, 7-5700, 1.
- Sollenberger, Mitchel, and Mark J. Rozell. 2012. *The President’s Czars: Undermining*

- Congress and the Constitution*. Lawrence, KS: University Press of Kansas.
- Trausch, Susan. 1989. "In This Corner; Washington Has Gone Czar Crazy; Hang on, America." *Boston Globe*, February 21, 1989.
- Vaughn, Justin S., and José D. Villalobos. 2012. "The Debate Over Barack Obama's Policy Czars." In *The Obama Presidency: A Preliminary Assessment*, Robert P. Watson, Douglas M. Brattebo, Jack Covarrubias, and Thomas Lansford, eds. Albany, NY: SUNY Press, 315-341.
- Vaughn, Justin S., and José D. Villalobos. Forthcoming. *Czars in the White House: The Rise of Policy Czars as a Presidential Management Tool*. Ann Arbor, MI: University of Michigan Press.

¹ See congressional testimony from James Pfiffner (2009) and Bradley Patterson (2009) for similar definitions that also hinge on the lack of Senate confirmation.

² At the same time, Congress may choose to allow the president to appoint certain "inferior" officers without Senate confirmation. Officers that do not require Senate advice and consent are presumed to serve in an advisory or support role.

³ See the first chapter of Sollenberger and Rozell's 2012 book and their 2012 article (name order reversed) in *Congress & the Presidency* for more thorough treatments of their legal argument.

⁴ See Sollenberger and Rozell (2012, Chapter One) for an in-depth discussion of the relevant legislation and court decisions that further constrain White House structure and presidential staffing options.

⁵ Krause employs a compelling yet unique measure for his concept of organizational size and scope (i.e., girth): overall EOP expenditures, rather than personnel figures. Krause notes that this measurement approach possesses advantages over personnel data. First, EOP staffing data can be misleading as positions and corresponding personnel can be shifted around, whereas expenditure data allows researchers to account for both the labor and capital components involved in the administrative dimensions of the presidency. Regardless of one's preference for personnel or expenditure data, the trend identified by Krause is unmistakable and suggestive.

⁶ Technically, Ridge's title was United States Homeland Security Advisor, but acknowledges in the referenced testimony the czar moniker.

⁷ For an in-depth analysis of the evolution of the AIDS Czar, see Vaughn and Villalobos (forthcoming, chapter five).

⁸ For an in-depth analysis of George W. Bush's use of various national security czars after September 11th, 2001, including Intelligence Czar, Homeland Security Czar, and War Czar, see Vaughn and Villalobos (forthcoming, chapter six).

⁹ For an in-depth analysis of the evolution of the Drug Czar, see Vaughn and Villalobos (forthcoming, chapter four).

¹⁰ For an in-depth analysis of the history of the Energy Czar, see Vaughn and Villalobos (forthcoming, chapter three).