

**RAND**

*Department of Defense  
Political Appointments*

*Positions and Process*

*Cheryl Y. Marcum, Lauren R. Sager Weinstein,  
Susan D. Hosek, Harry J. Thie*

*National Defense Research Institute*



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*Prepared for the  
Office of the Secretary of Defense*

***National Defense Research Institute***

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## Preface

On September 15, 1998, the Under Secretary of Defense for Acquisition and Technology directed the establishment of a Defense Science Board Task Force on Human Resources Strategy. He chartered the task force to review trends and opportunities to improve DoD's capacity "to attract and retain civilian and military personnel with the necessary motivation and intellectual capabilities" to serve and lead within the Department. The task force then asked the National Defense Research Institute (NDRI) for analytic support. Specifically, NDRI was asked to undertake two larger tasks: (1) to collect and analyze existing DoD data on presidential appointees with Senate confirmation and on political appointees who do not require Senate confirmation; and (2) to review the literature both on the appointees and on the appointment process, focusing on the deterrents that potential appointees may encounter. This report documents the results of this work, some of which was incorporated into the task force's final report, which was released in February 2000 by the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics.

This research was conducted for the Under Secretary of Defense for Acquisition and Technology within the Forces and Resources Policy Center of RAND's National Defense Research Institute. NDRI is a federally funded research and development center sponsored by the Office of the Secretary of Defense, the Joint Staff, the Unified Commands, and the defense agencies.



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## Summary

Political appointees constitute the heart of civilian leadership in the Pentagon. Individuals who are appointed by the President and confirmed by the U.S. Senate occupy a total of 45 positions in the top echelons of the Department of Defense (DoD), including the Office of the Secretary of Defense (OSD) and the military departments—up from 12 a half-century ago.<sup>1</sup>

### **The Political Appointment and Confirmation Process: A Help or a Hindrance to Attracting Individuals to Serve in Senior DoD Positions?**

As the number of political appointee positions has grown over the past 50 years, so too have the processes and procedures that individuals must undergo to gain Senate confirmation. Candidates today must provide extensive background and financial information to the White House before they are nominated. Once nominated, individuals must provide even more information on additional topics to the FBI, the Internal Revenue Service (IRS), and Senate investigators. Once confirmed, political appointees must then adhere to a complex set of federal ethics and conflict-of-interest laws passed in recent decades—legislation that limits their financial and investment options when they are in office while constraining their business and employment opportunities after they leave government service.

At the same time, political appointee positions are taking longer to fill than has been the case in the past; the amount of time such positions go unfilled or are occupied by “acting” officials is rising; and the average time a political appointee spends in a DoD position is shrinking. Today’s political appointee nominees face a confirmation process that lasts an average of 8.5 months—more than triple the wait their counterparts endured just three decades ago. Moreover, political appointee positions are vacant some 20 percent of the time today, up from nearly nil 50 years ago. And turnover is high; the most common tenure for the most senior DoD officials ranges between 11 and 20 months.

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<sup>1</sup>Public Law 105-261 (October 17, 1998) reduced the number of authorized Assistant Secretary of Defense positions from ten to nine, thereby reducing the number of authorized political appointee positions requiring Senate confirmation in the DoD from 45 to 44. As of May 1999, official OSD title reports reflected 45 such positions in the DoD.

In recent years, these trends have come under increasing scrutiny from policymakers both in and outside the DoD, who are concerned that the process might be deterring highly qualified individuals from government service.

## **NDRI's Assistance to the Defense Science Board Task Force on Human Resources Strategy**

In September 1998, the Under Secretary of Defense for Acquisition and Technology directed that a Defense Science Board Task Force on Human Resources Strategy be established. The under secretary charged the task force with review[ing] trends and opportunities to improve DoD's capacity "to attract and retain civilian and military personnel with the necessary motivation and intellectual capabilities" to serve and lead within the Department. The task force included an assessment of the trends and policies affecting the top civilian leadership in its review.

Shortly after it was created, the task force asked RAND's National Defense Research Institute (NDRI) to provide two areas of technical assistance to its review: (1) collecting and reviewing DoD data on presidential appointees, and (2) reviewing the literature both on appointees and on the appointment process, with a focus on deterrents that potential appointees may encounter. NDRI's assistance was incorporated into the Defense Science Board's final report, entitled *Defense Science Board Task Force on Human Resources Strategy* (Defense Science Board, 2000).

## **NDRI's Review of DoD Data on Presidential Appointees**

Using DoD data, NDRI tallied the changes in the number of DoD political appointee positions from 1947 through 1999. As part of this task, NDRI interviewed individuals who were knowledgeable about the DoD's political appointee process and its political appointee data, including people who had occupied political appointee positions in the department and those who had been involved in managing its political appointee confirmation process. These interviews and data reviews uncovered four findings:

- 1. The numbers and layers of political appointee positions that require Senate confirmation increased over time.** NDRI found that the number of positions in the DoD that require appointment by the President and confirmation by the

Senate (all of which are in the OSD and in the military departments) nearly quadrupled between 1947 and 1999. Passage of the National Security Act of 1947 established the Secretary of Defense as the first such position. In 1947, the military departments contained 11 political appointee positions that required Senate confirmation. By 1999, the number of political appointee positions that required Senate confirmation in the OSD and the military departments had grown to 45, down from a high of 47 in 1993. This growth reflects increases both in positions that have existed for much of OSD's history and in new positions stemming from new layers of administration. Table S.1 outlines how this growth has taken place within the OSD. The most noticeable growth has been in one long-standing type of position, Assistant Secretary of Defense, and in two new administrative layers, Under Secretary and Deputy Under Secretary of Defense.

**2. Functional responsibilities of political appointee positions in the OSD have tended to narrow.** In general, as the number of Senate-confirmed political appointee positions has grown in the OSD, the functional areas for which each is responsible have narrowed. Functions that at one time were overseen by one position—e.g., Assistant Secretary of Defense (Legislative and Public Affairs) or Assistant Secretary of Defense (Manpower, Personnel, and Reserve)—are now managed by several political appointee positions.

**3. The tenure of senior political appointees generally has been short.** From 1949 through 1999, the average tenure for a Secretary of Defense was 30 months. Deputy Secretaries of Defense served an average of 23 months. Those averages, however, include individuals who served much longer stints—such as Robert McNamara, who served 85 months as Defense Secretary, and Caspar Weinberger, who served 72 months as Defense Secretary. Most of the highest-level DoD political appointees—Secretary of Defense, Deputy Secretary, and military department secretaries—served 11 to 20 months. These tenures are similar to those of other senior officials in the federal government.

**4. The vacancy rates of political appointee positions have increased.** Whereas the Secretary of Defense post has been vacant only three times—for a total of 104 days—vacancies in other political appointee positions in the DoD have increased since 1947. Figure S.1 depicts this drop in occupied political appointee position rates over time. As this figure indicates, political appointee positions were vacant or occupied by an “acting official” 2 percent of the time during the Truman administration. That figure increased steadily over the years, exceeding 20 percent in the first Clinton administration.

**Table S.1**  
**OSD Political Appointees Requiring Senate Confirmation, 1947–1999**

	Position <sup>a</sup>										Total	
	SD	DSD	USD	DUSD	DDRE	ASD	ATSD	COMP <sup>b</sup>	DOTE	GC		IG
1940s												
1947	1											1
1949	1	1				3						5
1950s												
1953	1	1				9				1		12
1960s												
1969	1	1			1	8				1		12
1970s												
1972	1	2			1	10				1		15
1977	1	1	2			7				1		12
1980s												
1981	1	1	2	1		7				1		13
1982	1	1	2	1		8				1	1	15
1983	1	1	2	1		9				1	1	16
1984	1	1	2	1		10				1	1	17
1985	1	1	2			10			1	1	1	17
1986	1	1	2		1	9		1	1	1	1	18
1988	1	1	2	1	1	11		1	1	1	1	21
1989	1	1	2	1	1	11	1	1	1	1	1	22
1990s												
1993	1	1	3	2	1	12	1	1	1	1	1	25
1994	1	1	4	2	1	10	1		1	1	1	23
1996	1	1	4	2	1	10	1		1	1	1	23
1999	1	1	4	2	1	10	1		1	1	1	23 <sup>c</sup>

SOURCES: *Department of Defense Key Officials, 1947–1995* (1995), memorandum from D. O. Cook (1999), and OSD and military department internal title reports (1998–1999).

<sup>a</sup>SD = Secretary of Defense; DSD = Deputy Secretary of Defense; USD = Under Secretary of Defense; DUSD = Deputy Under Secretary of Defense; DDRE = Director, Defense Research and Engineering; ASD = Assistant Secretary of Defense; ATSD = Assistant to the Secretary of Defense; COMP = Comptroller; DOTE = Director, Operational Test and Evaluation; GC = General Counsel; IG = Inspector General.

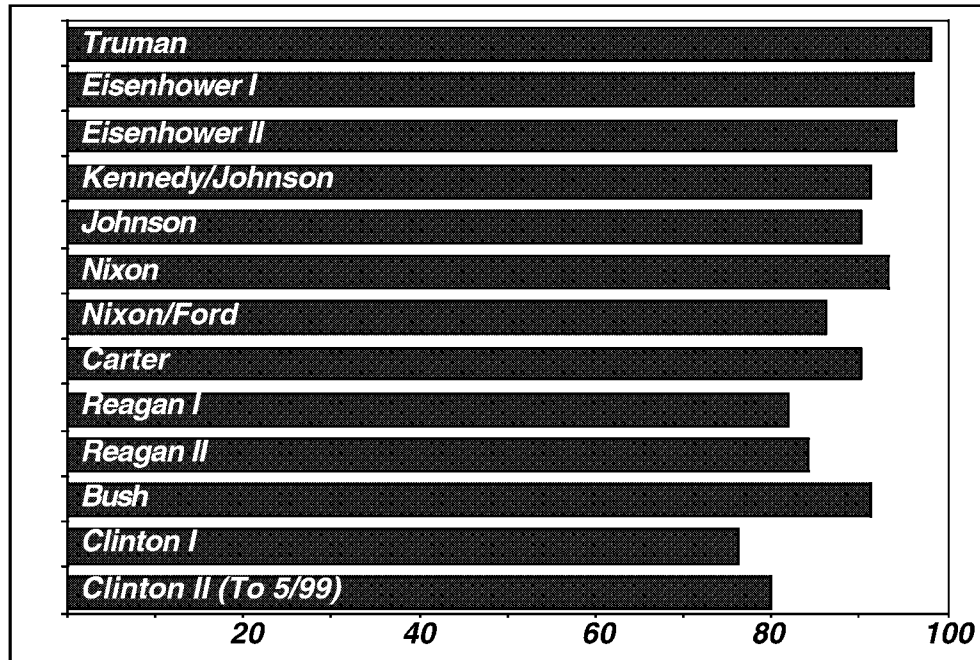
<sup>b</sup>This table illustrates the overall trends of presidential appointee with Senate confirmation (PAS) positions over time, both types and layers, but does not track changes in individual-position titles or layers. Therefore, for example, we have counted the Comptroller in three different columns on the above table. From 1949 until 1986, the Comptroller was an assistant secretary position, and we counted it as such. From 1986 until 1993, the position was titled DoD Comptroller (COMP) and is thus listed separately in the table. Since then, the position has been titled Under Secretary (Comptroller), and we have counted it in the Under Secretary column.

<sup>c</sup>Public Law 105-261 (October 17, 1998) reduced this number to 22.

## NDRI's Literature Review of Political Appointments and of Potential Disincentives to Government Service

NDRI's literature review of the political appointment process revealed numerous disincentives to government service both in the steps leading from appointment through confirmation and in the postappointment environment senior DoD officials encounter.





SOURCES: *Department of Defense Key Officials, 1947–1995* (1995), memorandum from D. O. Cook (1999), OSD and military department internal title reports (1998–1999), and Office of the Under Secretary of the Navy internal document (undated).

Figure S.1— Percentage of Time PAS Positions Are Filled, by Presidential Administration

**Disincentives to government service inherent in the political appointment process.** Today’s DoD political appointee candidates go through a selection, investigation, nomination, and confirmation process that lasts an average of 8.5 months, compared with a process that took an average of 2.4 months during the Kennedy administration. Much of this delay results from extensive questioning and background checks, first by the White House and later by the Senate, as well as from delays in confirmation.

The literature on political appointments suggests that individuals face deterrents to government service at various stages along this process. During the selection stage, the White House asks candidates to provide a range of sensitive personal, medical, and financial information that some individuals prefer not to reveal. As candidates move into the investigation stage, agencies such as the FBI and the IRS ask for more detailed information—such as candidates’ compensation histories, loan agreements, and financial assets. Some candidates fear that this information, although protected by the Privacy Act, might nonetheless be leaked

to the public. Also at this stage, the candidate must resolve sometimes-complex issues concerning conflicts of interests—for example, by having to divest defense industry investments. On occasion, the Senate confirmation process puts candidates at risk of having their reputations tarnished or their personal lives placed under intense press scrutiny. And those who have been in the private sector often face large pay and retirement cuts once they have assumed government positions.

**Disincentives to government service inherent in postappointment restrictions.**

The literature suggests that other restrictions imposed on political appointees once they have been appointed and confirmed may deter candidates from serving in DoD positions. Political appointees face a lifetime ban, for example, against attempting to influence any part of the U.S. government or court system on specific matters they dealt with while in government service. In addition, they face a five-year restriction against lobbying the DoD as well as a lifetime prohibition against representing any foreign government.

There is no information about the number of candidates who are actually deterred by these considerations. The literature notes that many political appointees express a great deal of satisfaction with their government service. The opportunities to engage in public service, work on intellectually stimulating problems with interesting co-workers, and carry out presidential policies are all attractive aspects of political appointee positions in the DoD.

## Acknowledgments

We wish to express our thanks and appreciation to the people who assisted us during our project.

The Defense Science Board Task Force on Human Resources Strategy asked the questions that shaped this report. We are grateful to the following individuals on this task force who provided encouragement: Dr. John Foster, Jr., and General Larry D. Welch, USAF (retired), co-chairs for the task force; Chase Untermeyer, chair for the civilian panel; and Dr. Curt Gilroy, Office of the Under Secretary of Defense (Personnel and Readiness).

This study relied primarily on hard-copy data—both published and unpublished—and on the literature to describe Department of Defense political appointee positions and the process. As a result, the report would not have been possible without the assistance of those within the Office of the Secretary of Defense, the military departments, and the Defense Manpower Data Center who helped us identify, locate, and interpret data going back 50 years—data that were not originally assembled for our purposes. In particular, Chris Koehle and Cheryl Sneed of the Staffing, Classification, and Executive Resources Division, Personnel and Security Directorate, Washington Headquarters Services, and Joyce N. Fuller, Office of the Under Secretary of the Navy, contributed their vast corporate knowledge and dug into reams of paper files in search of the data we needed. We thank them for their avid support and excellent results. We are also grateful that the Historical Office, Office of the Secretary of Defense, had the foresight to publish a useful collection of data on presidential appointees that require Senate confirmation, going back to the creation of the Department of Defense.

Individuals from the Office of Executive Resources, Office of the Secretary of Defense; from the Senate Armed Services Committee; and from the Office of Government Ethics also provided valuable insights on the political appointment process not available through published documents. We thank them for sharing their perspectives.

Finally we are grateful to Bob Roll, our RAND colleague, for his thoughtful review of an early draft.

The data contained herein are highly detailed, and in some cases their interpretation is complex. Any errors or mistakes are our own.



## Acronyms

AS	Assistant Secretary
ASD	Assistant Secretary of Defense
ATSD	Assistant to the Secretary of Defense
C.F.R.	Code of Federal Regulations
COMP	Comptroller
CSRS	Civil Service Retirement System
DAEO	Designated Agency Ethics Officer
DASD	Deputy Assistant Secretary of Defense
DDRE	Director, Defense Research and Engineering
DMDC	Defense Manpower Data Center
DoD	Department of Defense
DOTe	Director, Operational Test and Evaluation
DSD	Deputy Secretary of Defense
DUSD	Deputy Under Secretary of Defense
FERS	Federal Employees' Retirement System
FPG	<i>Federal Personnel Guide</i>
GC	General Counsel
IG	Inspector General
IRS	Internal Revenue Service
OER	Office of Executive Resources
OGE	Office of Government Ethics
OSD	Office of the Secretary of Defense
PAS	Presidential appointee with Senate confirmation
P.L.	Public Law
QBT	Qualified blind trust
QDT	Qualified diversified trust
S	Secretary
SD	Secretary of Defense
SES	Senior Executive Service
TSP	Thrift Savings Plan
US	Under Secretary
U.S.C.	United States Code
USD	Under Secretary of Defense



# 1. Introduction

Twenty men have served as Secretary of Defense since the National Security Act of 1947 established the senior politically appointed position in the Department of Defense (DoD). During the 52-year period since that time, the number of positions for presidential appointees with Senate confirmation (PASs) in the DoD has increased from 12 in 1947 to 45 as of May 1999.<sup>1</sup> These Senate-confirmed officials are augmented by another group of political appointees who are noncareer members of the Senior Executive Service (SES). In FY 1998, PAS and noncareer SES appointees comprised only 0.004 and 0.01 percent, respectively, of the DoD's civilian workforce. Even though these political appointees make up a small percentage of the total DoD civilian workforce, they play key leadership roles in the department.

In late 1998, the Defense Science Board established the Task Force on Human Resources Strategy. The task force was established to review trends and opportunities to improve DoD's capacity "to attract and retain civilian and military personnel with the necessary motivation and intellectual capabilities" to serve and lead within the Department. During its early meetings, panel members raised the following questions about political appointee positions, about the appointees, and about the appointment process:

- What are the changes in positions over time by number, level, and function?
- What is the tenure of those who served in the most senior positions? How does this compare to other departments?
- Have these positions been more difficult to fill and keep filled in recent periods?
- How are people selected for these positions? Are there obstacles or deterrents to service?

The material presented in this report was prepared to assist the task force in answering these questions. The material consists of (1) data on PAS and noncareer SES; and (2) a review of the literature on the appointment process.

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<sup>1</sup>Public Law (P.L.) 105-261 (October 17, 1998) reduced the number of authorized Assistant Secretary of Defense positions from ten to nine, thereby reducing the number of authorized PAS positions in the DoD from 45 to 44. As of May 1999, official Office of the Secretary of Defense (OSD) title reports still reflected 45 PAS positions in the DoD.

## Approach

Limited empirical data exist on DoD PAS positions and on the backgrounds of people who have filled them. However, extensive data exist—mostly in the literature—on the obstacles in the confirmation process as well as on deterrents to service that might stifle interest in seeking political appointments. We therefore proceeded in the following manner:

- Interviewed those knowledgeable of the confirmation process, those knowledgeable about data sources, and those who had held PAS positions or had been involved in managing the process;
- Acquired data on all positions filled by political appointment; and
- Reviewed applicable studies and reports both for additional data and for insights into the confirmation process.

## Organization of This Report

The remainder of the report is organized into three sections. Section 2 describes trends from 1947 to 1999 in the numbers of political appointees in the DoD, particularly in the OSD, and in the vacancy rates and job tenure in PAS and noncareer SES positions. Section 3 details the appointment and confirmation process, including the obstacles candidates face in agreeing to serve. Section 4 summarizes the trends we noted in the materials we surveyed.



## 2. Trends in DoD Political Appointees

### Historical Background<sup>1</sup>

The National Security Act of 1947 established the position of Secretary of Defense, the first OSD presidential appointment that required Senate confirmation. The organization itself was at that time called the National Military Establishment but was renamed two years later as the Department of Defense through amendments to the act. James V. Forrestal was sworn in as the first Secretary of Defense on September 17, 1947.

For approximately 150 years, the armed forces of the United States were administered by two departments: War (renamed Army in 1947) and Navy. The National Security Act of 1947 added a third department for the newly independent Air Force (Watson, 1997). From 1789 until the moment the first Secretary of Defense was sworn in, it had been the President's duty as commander in chief to provide unified direction to the armed forces. The arrangement worked reasonably well until the early 20th century, when the United States emerged as a world power. The increasing demands on the President's time forced him to rely ever more heavily on subordinates to discharge his military duties. This became particularly apparent during World War II, as President Franklin Roosevelt increasingly delegated authority through improvised mechanisms. By the end of that war, "with the United States confronting security problems unprecedented in scale and scope, the need for organizational reform appeared more urgent than ever."

In the summer of 1947, Congress responded to this need by passing the National Security Act. This act subordinated the secretaries of the Army, the Navy, and the newly established Air Force to a new Secretary of Defense, thus inserting a new layer of civilian authority between the services and their commander in chief. Over the years, the organization has been progressively refined, and new layers of authority have been inserted with the intended purpose of strengthening the secretary's control.

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<sup>1</sup>The bulk of the material in this section is drawn from Rearden (1984). In particular, all quotes not otherwise attributed are from this source.

The National Security Act gave the Secretary of Defense wide discretionary authority to establish his office and made some provision for immediate needs:

[The act] allowed him direct staff support from three sources. He could appoint three civilian special assistants whose salaries, at \$10,000 per year, equaled those received by departmental under or assistant secretaries. He could hire, subject to Civil Service Commission regulations, as many professionals and clerical aides, including part-time consultants, as he required.

The secretary could ask the services to assign officers to serve as assistants and personal aides and could draw on the resources of several “staff agencies”—the Joint Chiefs of Staff, the Research and Development Board, and the Munitions Board.

Forrestal divided the activities he envisioned for his immediate office into three functional areas: legal and legislative matters, budgetary and fiscal affairs, and public relations. He selected three special assistants who were neither appointed by the President nor confirmed by Congress. Each special assistant was intended to serve as the “principal coordinator” for one assigned area. Forrestal, however, directed the assistants to “operate as a team, rather than along separate and distinct functional lines.”

Forrestal vastly underestimated his need for staff support. As a result, he had to handle personally many aspects of four nearly simultaneous crises that arose early in his tenure—in Greece, Italy, Palestine, and Germany. As one special assistant recalled,

[It] wasn’t more than a few weeks, I think, before Forrestal began to realize that this whole thing [the initial organizational design] was impossible, though he gave way reluctantly. He obviously needed an under secretary. The special assistants were seriously handicapped. We operated as though we were under secretaries, but there was just so much we could get away with. And yet someone had to take the initiative and do things. . . . The role of the special assistants was somewhat ambiguous, both from a legal standpoint and within the structure of the office itself.<sup>2</sup>

In addition, as Rearden noted, “delays in obtaining qualified people made it difficult to perform many prescribed functions. Numerous high-level positions remained vacant for months at a time; in several instances, attempts to fill them proved abortive and the positions were eliminated without ever being occupied.” The hardest positions to fill required both administrative skills and expertise in substantive areas. Some positions were temporary, lasting from a few days to

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<sup>2</sup>Special Assistant John H. Ohly, quoted in Rearden (1984), p. 62.

several months, but most were considered permanent and entailed policy and administrative responsibilities. At first, private industry seemed to be a good source of executive-level talent: “Forrestal compiled a list of more than 100 professionals and businessmen he thought might serve in various capacities.” Forrestal quickly found, however, that most promising candidates tended to decline these positions because they paid less than comparable ones in the private sector.

Public Law (P.L.) 36, approved by President Truman on April 2, 1949, authorized the second OSD PAS position, the Under Secretary of Defense; the first under secretary was appointed on May 2, 1949. Later that year, the 1949 Amendments to the National Security Act of 1947 changed the title of this position to Deputy Secretary of Defense. The 1949 Amendments also converted the three special assistant positions into PAS assistant secretary positions, ranking after the secretary, the deputy secretary, and the civilian heads of the three military departments. Congress specified that one of the assistant secretaries would be the comptroller of the Department of Defense.

## Trends in the Number of Political Appointees

To our knowledge, there has been no previous effort to comprehensively collect and analyze data to answer the following questions:

- What is the trend in numbers and levels of PAS positions in the DoD from 1947 to the present?
- How often and for how long are authorized DoD PAS positions vacant?
- What is the tenure of individuals appointed to PAS positions in the DoD?

To answer these questions, we compiled existing fill/vacancy data for all PAS positions in the OSD and the military departments.<sup>3</sup>

Title 10 of the *United States Code* (U.S.C.) authorizes the DoD as an executive department and establishes the senior political leadership positions that support the Secretary of Defense. PAS positions are distributed to the OSD, the Office of the Secretary of the Army, the Office of the Secretary of the Navy, and the Office of the Secretary of the Air Force. They include titles such as Deputy Secretary, Under Secretary, Director, Assistant Secretary, Comptroller, General Counsel, and Inspector General. Currently, Title 10 authorizes 44 PAS positions for the DoD: 22 in the OSD, eight in the Office of the Secretary of the Army, seven in the

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<sup>3</sup>See Appendix B for a description of the original data sources. The complete data set is available separately (for specifics, see Appendix C).

Office of the Secretary of the Navy, and seven in the Office of the Secretary of the Air Force.

A host of other political appointees who do not require Senate confirmation augment the 44 PAS positions. Other political appointments that do not require Senate confirmation include noncareer appointments to the SES<sup>4</sup> at the Deputy Assistant Secretary (DASD) level and appointments to Schedule C positions.<sup>5</sup> Appendix A provides an overview of the federal workforce system.

Noncareer SES appointments cannot exceed 10 percent of the number of SES spaces throughout the executive branch. The DoD SES population (career and noncareer combined) stands at approximately 1230. Of these, 68 serve in noncareer SES positions at the DASD level: 45 in the OSD, nine in the Office of the Secretary of the Army, six in the Office of the Secretary of the Navy, and eight in the Office of the Secretary of the Air Force.<sup>6</sup>

### *PAS Positions in the Office of the Secretary of Defense*

The major changes in the number of OSD PAS positions during the last 50 years resulted from reorganization of the department. The Reorganization Plan No. 6 of 1953, the DoD Reorganization Act of 1958, the Defense Reorganization Order of 1978, the FY 1983 Authorization Act, the FY 1984 Defense Authorization Bill, and the Military Reform Act of 1986 all made changes in PAS positions. In other instances, Congress changed the authorized number of PAS positions by instituting less sweeping public laws.<sup>7</sup>

Table 2.1 shows the number of PAS positions at each title level in the OSD from July 1947 to May 1999.<sup>8</sup> The increasing number of PAS positions over time reflects a continuing desire on the part of the President, the Defense Secretary, or

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<sup>4</sup>SES positions are also known as the old supergrades.

<sup>5</sup>Schedule C appointees will not be discussed in this report, as they are generally subordinate to the higher-level noncareer SES and PAS appointees. Many Schedule C appointees serve in nonexecutive positions, including confidential assistants.

<sup>6</sup>Defense Manpower Data Center (DMDC) inventory data. DoD Schedule C appointments stand at approximately 125, generally at the GS-12/13 grades.

<sup>7</sup>Specific public law numbers are for the most part excluded from the body of this report because in some sections, the sheer number of public laws tends to overpower the focus on PAS positions. The numbers of public laws that established or abolished PAS positions appear in the comments in the full data set.

<sup>8</sup>Table 2.1 shows only those positions that require Senate confirmation. In some cases, other positions with the same title (e.g., deputy under secretary) have been established for noncareer or career SES officials.

**Table 2.1**  
**OSD Political Appointees Requiring Senate Confirmation, 1947–1999**

	Position <sup>a</sup>										Total	
	SD	DSD	USD	DUSD	DDRE	ASD	ATSD	COMP <sup>b</sup>	DOTe	GC		IG
1940s												
1947	1											1
1949	1	1					3					5
1950s												
1953	1	1					9			1		12
1960s												
1969	1	1			1	8				1		12
1970s												
1972	1	2			1	10				1		15
1977	1	1	2			7				1		12
1980s												
1981	1	1	2	1		7				1		13
1982	1	1	2	1		8				1	1	15
1983	1	1	2	1		9				1	1	16
1984	1	1	2	1		10				1	1	17
1985	1	1	2			10			1	1	1	17
1986	1	1	2		1	9		1	1	1	1	18
1988	1	1	2	1	1	11		1	1	1	1	21
1989	1	1	2	1	1	11	1	1	1	1	1	22
1990s												
1993	1	1	3	2	1	12	1	1	1	1	1	25
1994	1	1	4	2	1	10	1		1	1	1	23
1996	1	1	4	2	1	10	1		1	1	1	23
1999	1	1	4	2	1	10	1		1	1	1	23 <sup>c</sup>

SOURCES: *Department of Defense Key Officials, 1947–1995* (1995), memorandum from D. O. Cook (1999), and OSD and military department internal title reports (1998–1999).

<sup>a</sup>SD = Secretary of Defense; DSD = Deputy Secretary of Defense; USD = Under Secretary of Defense; DUSD = Deputy Under Secretary of Defense; DDRE = Director, Defense Research and Engineering; ASD = Assistant Secretary of Defense; ATSD = Assistant to the Secretary of Defense; COMP = Comptroller; DOTe = Director, Operational Test and Evaluation; GC = General Counsel; IG = Inspector General.

<sup>b</sup>This table illustrates the overall trends of presidential appointee with Senate confirmation (PAS) positions over time, both types and layers, but does not track changes in individual-position titles or layers. Therefore, for example, we have counted the Comptroller in three different columns on the above table. From 1949 until 1986, the Comptroller was an assistant secretary position, and we counted it as such. From 1986 until 1993, the position was titled DoD Comptroller (COMP) and is thus listed separately in the table. Since then, the position has been titled Under Secretary (Comptroller), and we have counted it in the Under Secretary column.

<sup>c</sup>P.L. 105-261, October 17, 1998, reduced the number of Assistant Secretary of Defense positions from ten to nine, thereby reducing the number of OSD political appointee positions that require Senate confirmation from 23 to 22. However, our data source, the DoD title report dated May 1999, listed ten Assistant Secretary of Defense positions.

Congress to strengthen the secretary's power to exercise direction and control over the military services. The count illustrated here is based primarily on DoD title reports and on *Department of Defense Key Officials, 1947–1995* (1995) rather than on Title 10, *United States Code*.<sup>9</sup>

<sup>9</sup>The original data sources sometimes list the date a public law established a position but sometimes list only the date the OSD officially established the position, which frequently lags the statutory establishment date by months and in some cases years.

The number of PAS positions in the OSD has grown from one in 1947<sup>10</sup> to 23 in May 1999.<sup>11</sup> The Amendments of 1949 set the number of assistant secretaries in the OSD at three. The Reorganization Act of 1953 added six for a total of nine assistant secretaries, also adding the General Counsel as a PAS position. By 1969, public law set the number of assistant secretaries in OSD at eight and added the Director of Defense Research and Engineering. In 1972, the number of OSD PAS positions peaked at 15 before dropping back to 12 by 1977. By then, public law had abolished the second Deputy Secretary of Defense and the Director of Defense Research and Engineering and had established two new under secretary positions: one for Policy and one for Research and Engineering.

From 1977 until 1993, OSD PAS positions grew steadily in number. The Inspector General was added in 1982. The FY 1984 Defense Authorization Bill established the new PAS position, Director of Operational Test and Evaluation. In 1986, the Assistant Secretary (Comptroller) position was elevated to DoD Comptroller, creating one more PAS position; in 1993, it was elevated yet again as the third under secretary position. The 1987 Amendments added the Assistant Secretary for Special Operations and Low Intensity Conflict. The National Defense Authorization Act of 1987 added the Principal Deputy Under Secretary of Defense for Acquisition and Technology.

The National Defense Authorization Act for 1992–1993 added another statutory PAS position at the assistant secretary level, the Principal Deputy Assistant Secretary of Defense for Policy. The number of assistant secretaries peaked at 12 in 1993 before the Amendments of 1993 authorized a reduction to ten assistant secretaries. The number of OSD PAS positions also peaked at 25 in 1993, when Secretary Les Aspin increased the number of assistant secretaries in the policy functional area from three to six. In 1994, however, the number of OSD PAS positions was reduced to 23.

The data show a steady growth in higher-level PAS position titles starting with the addition of a Deputy Secretary of Defense authorized by the Amendments of 1949 and followed by a second Deputy Secretary of Defense position that was filled only one year out of the five years it existed. Public law established two Under Secretaries of Defense in 1977 and in 1993 augmented each with a new

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<sup>10</sup>The Secretary of Defense was the first PAS in the OSD. The National Security Act of 1947 elevated the chairmen of two predecessor nonstatutory organizations to PAS status: the Chairman of the Munitions Board and the Chairman of the Research and Development Board. As staff agencies, they were not considered part of the immediate OSD.

<sup>11</sup>The most recent (May 1999) DoD title report shows 23 PAS positions in the OSD, including ten Assistant Secretary of Defense positions. However, P.L. 105-261, October 17, 1998, reduced the number of Assistant Secretary of Defense positions from ten to nine, thereby reducing the number of PAS-authorized positions from 23 to 22.

Deputy Under Secretary of Defense position. A third Under Secretary of Defense was added in 1993 and a fourth in 1994. Table 2.1 illustrates the steady upward trend of increasing executive-level position titles in OSD.

PAS position numbers and titles have changed as changing priorities drove senior positions in many functional areas to gain and lose PAS status and altered functional responsibilities were assigned to existing assistant secretary positions.<sup>12</sup> Eight OSD position titles written in public law have not changed from the time the PAS position was first established in 1947 to the present (Table 2.2). Many other functions have shared an assistant secretary with another function, such as the Assistant Secretary of Defense (Legislative and Public Affairs) or the Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations, and Environment). As the number of assistant secretary positions in the OSD grew over time, assistant secretaries were more often assigned to single rather than combined functions.

PAS positions have been assigned to a wide range of functions—some waxing and waning—over the past 50-plus years (see Appendix C for detailed information on these changes). Two functional areas—international security and research and development—have had numerous position changes. The international security area shows the most change over time in numbers of assistant secretary positions devoted to a function. One assistant secretary was assigned to the international security function from 1953 until a second was

**Table 2.2**  
**OSD Position Titles That Have Not Changed Since Their Establishment**

Position	Date of Establishment
Secretary of Defense	07/26/1947–present <sup>a</sup>
Deputy Secretary of Defense	08/10/1949–present
Under Secretary of Defense (Policy)	10/21/1977–present
Principal Deputy Under Secretary of Defense (Policy)	National Defense Authorization Act 1992/1993–present
General Counsel	08/24/1953–present
Inspector General	09/08/1982–present
Assistant Secretary of Defense (Special Operations/Low Intensity Conflict)	01/04/1988–present
Director, Operational Test and Evaluation	09/24/1983–present

<sup>a</sup>May 31, 1999.

<sup>12</sup>Appendix C contains an annotated list of the OSD PAS position titles chronicled in *Department of Defense Key Officials, 1947–1995*, and more recent title reports, organized by functional area from 1947 to 1999. See Appendix D for the years that PAS positions were first authorized in each functional area and Appendix E for a list of the current PAS positions authorized in the OSD by functional area.

added in 1982. Three more were added in 1993 for a total of five assistant secretaries devoted to international security before the number dropped back to three in 1994. The number dropped again to two after P.L. 105-261 (October 17, 1998) reduced the number of authorized Assistant Secretary of Defense positions from ten to nine and the DoD decided to abolish the Assistant Secretary of Defense (International Security Policy).

The research and development function is the only other function to have had more than one assistant secretary devoted to it. This function (which merged with the acquisition and technology function around 1986) started out with two assistant secretary positions in 1953. It lost one assistant secretary position in 1957 before the Department of Defense Reorganization Act of 1958 created a new statutory position, the Director, Defense Research and Engineering. The director ranked above the assistant secretaries in OSD but below the secretaries of the military departments. This PAS position was later changed to that of an under secretary. By 1986, the function had two PAS positions that ranked above assistant secretary level: Director, Defense Research and Engineering, and an under secretary. From 1993 to 1995, the function had four PAS positions, including a deputy under secretary and an assistant secretary. Since late 1995, the function has had three PAS positions, none of which is an assistant secretary position, so the acquisition and technology function has the greatest number of the most senior executive-level PAS positions.

In general, much of the functional allocation of positions has come directly from Title 10 authority. In 1999, the *United States Code* specified 12 functions, shown in Table 2.3.

The Secretary of Defense and the Deputy Secretary of Defense are not associated with any functional area. The secretary has authority to assign the remaining six assistant secretaries to functions of his or her choosing.

### ***Military Department PAS Positions***

In a similar manner, the number of military department PAS positions has grown from 11 in 1947 to 22 today (Tables 2.4–2.6). Title 10 of the *United States Code* and other supplemental congressional documents record the changes to the military departments' PAS positions summarized in this section. The dates indicate when PAS positions were *established by statute* but do not indicate when the military departments actually established or filled the positions, a step that has sometimes lagged congressional authorization by months or years. For example, the DoD Reorganization Act of 1958 stated that the reduction in the number of assistant secretaries would not be effective until six months after the date of enactment.



**Table 2.3**  
**PAS Functions as Specified in 10 U.S.C.**

Acquisition and Technology	General Counsel
Research and Development	Inspector General
Policy	Nuclear and Chemical and Biological Defense
Comptroller	Reserve Affairs
Personnel and Readiness	Legislative Affairs
Operational Test and Evaluation	Special Operations and Low Intensity Conflict

**Table 2.4**  
**Army Political Appointees with Senate Confirmation, 1947–1999**

	Position <sup>a</sup>				Total
	S	US	AS	GC	
1940s					
1947	1	1	2	0	4
1949	1	1	2	0	4
1950s					
1953	1	1	2	0	4
1960s					
1969	1	1	4	0	6
1970s					
1972	1	1	5	0	7
1977	1	1	5	0	7
1980s					
1981	1	1	4	0	6
1982	1	1	4	0	6
1983	1	1	5	0	7
1984	1	1	5	0	7
1985	1	1	5	0	7
1986	1	1	5	0	7
1988	1	1	5	1	8
1989	1	1	5	1	8
1990s					
1993	1	1	5	1	8
1994	1	1	5	1	8
1996	1	1	5	1	8
1999	1	1	5	1	8

SOURCE: Title 10 U.S.C.

<sup>a</sup>S = Secretary; US = Under Secretary;  
AS = Assistant Secretary; GC = General Counsel.

Thus, the numbers and associated dates represent military department PAS positions authorized by Congress and will not always correlate precisely with personnel records, including lists of filled positions.

According to the *U.S. Government Organizational Manual, 1958*, the military departments each had two assistant secretaries from 1947 until 1956, when the

**Table 2.5**  
**Navy Political Appointees with**  
**Senate Confirmation, 1947–1999**

	Position <sup>a</sup>				Total
	S	US	AS	GC	
1940s					
1947	1	1	2	0	4
1949	1	1	2	0	4
1950s					
1953	1	1	2	0	4
1960s					
1969	1	1	4	0	6
1970s					
1972	1	1	4	0	6
1977	1	1	4	0	6
1980s					
1981	1	1	3	0	5
1982	1	1	3	0	5
1983	1	1	3	0	5
1984	1	1	4	0	6
1985	1	1	4	0	6
1986	1	1	4	0	6
1988	1	1	4	1	7
1989	1	1	4	1	7
1990s					
1993	1	1	4	1	7
1994	1	1	4	1	7
1996	1	1	4	1	7
1999	1	1	4	1	7

SOURCE: Title 10 U.S.C.

<sup>a</sup>S = Secretary; US = Under Secretary;  
AS = Assistant Secretary; GC = General  
Counsel.

number doubled to four for each department. The DoD Reorganization Act of 1958 reduced the number from four to three for each department. Congress authorized an additional assistant secretary position for Manpower and Reserve Affairs in 1967 for each of the military departments, raising the number of assistant secretaries from three to four. In 1970, public law authorized the Army one additional assistant secretary for a total of five assistant secretaries, representing the first time the number of assistant secretaries had differed among the military departments. In 1979, Congress reduced the number of assistant secretaries for each military department by one. Then in 1988, Congress authorized the Army one additional assistant secretary position, required that each military department designate one assistant secretary position for financial management, and elevated the military departments' General Counsel to PAS status effective January 20, 1989. This action increased the number of PAS positions to an all-time high of eight for the Army and seven for the Navy and Air Force.

**Table 2.6**  
**Air Force Political Appointees with**  
**Senate Confirmation, 1947–1999**

	Position <sup>a</sup>				Total
	S	US	AS	GC	
1940s					
1947	1	1	1	0	3
1949	1	1	2	0	4
1950s					
1953	1	1	2	0	4
1960s					
1969	1	1	4	0	6
1970s					
1972	1	1	4	0	6
1977	1	1	4	0	6
1980s					
1981	1	1	3	0	5
1982	1	1	3	0	5
1983	1	1	3	0	5
1984	1	1	3	0	5
1985	1	1	3	0	5
1986	1	1	3	0	5
1988	1	1	4	1	7
1989	1	1	4	1	7
1990s					
1993	1	1	4	1	7
1994	1	1	4	1	7
1996	1	1	4	1	7
1999	1	1	4	1	7

SOURCE: Title 10 U.S.C.

<sup>a</sup>S = Secretary; US = Under Secretary;  
AS = Assistant Secretary; GC = General  
Counsel.

### *Vacancies in Authorized PAS Positions*

When authorized PAS positions are vacant or temporarily filled with officials not appointed by the President and not confirmed by the Senate, civilian political leadership may be weakened. “Because the appointment process now moves so slowly, few departing officials are willing to peg their last day of work to their replacement’s first day. . . . This produces the increasingly common Washington type, the ‘acting’ something-or-other” (Mackenzie, 1998). This is confirmed by the data we collected, which show that over time, more PAS positions are vacant for longer periods of time.<sup>13</sup> Figure 2.1 illustrates two trends: the percentage of PAS position vacancies is steadily increasing as is the length of those vacancies.<sup>14</sup>

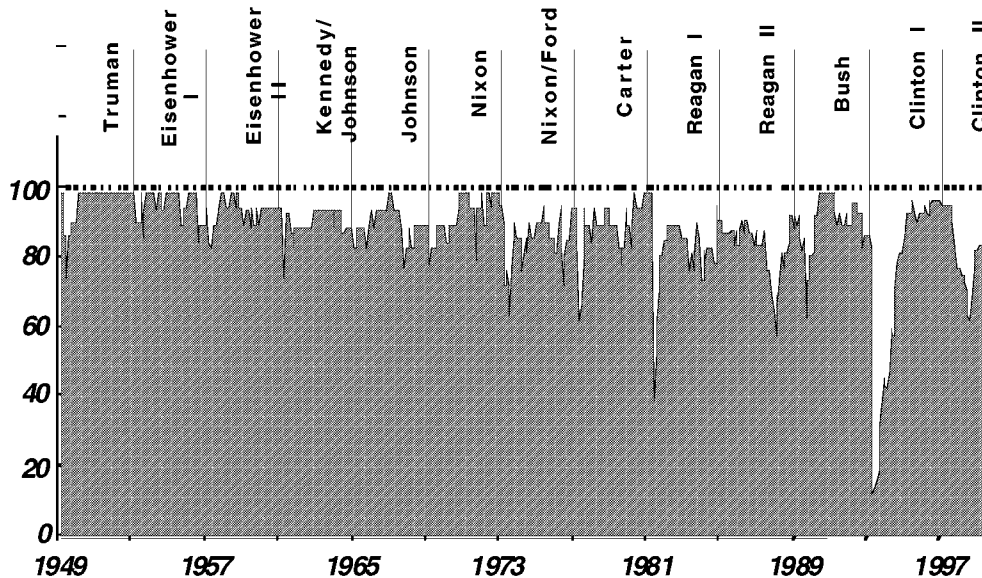
<sup>13</sup>“Vacant” means the PAS position is not occupied by a person appointed by the President with the advice and consent of the Congress.

<sup>14</sup>Figure 2.1 is based on available data on all OSD PAS positions, all Department of the Navy PAS positions, and all Department of the Army and Department of the Air Force secretary positions from 1947 to May 31, 1999.

An acting official may be an individual serving in another PAS appointment or, more likely, a senior member of the SES, career or noncareer, serving as a deputy to the vacant PAS position. According to the Office of the Secretary of Defense (1995), “Offices are often without a permanent appointee for periods ranging from days to years. During many of these periods there have been acting officials in charge. In other instances there is no indication of an acting official and a time gap is evident. For the most part, acting officials have been de facto rather than formally designated.”

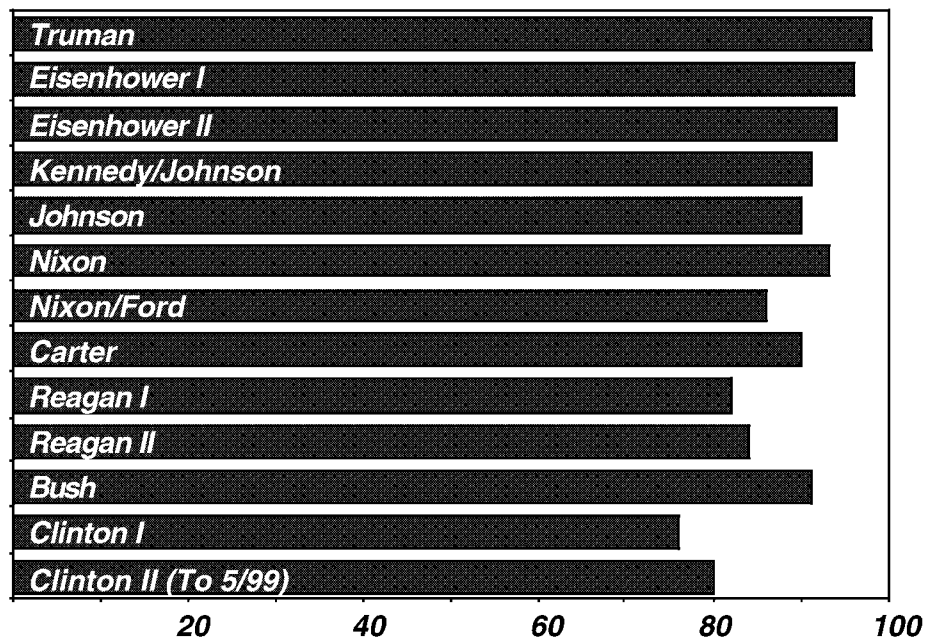
As the number of PAS positions increased significantly over time, the data show a decline in the percentage of available time those PAS positions were filled with a Senate-confirmed appointee (Figure 2.2). During the Truman administration, PAS positions were filled an average of 98 percent of the available time. During the Clinton administration, the average was 80 percent. In fact, from the Carter administration through the Clinton administration, seldom have all positions been filled.

The position of Secretary of Defense is an exception to this trend. Since James V. Forrestal was confirmed as the first Secretary of Defense on September 17, 1947,



SOURCES: *Department of Defense Key Officials, 1947–1995* (1995), memoranda from D. O. Cook (1998), (1999), OSD and military department title reports (1998–1999), and Office of the Under Secretary of the Navy internal document (undated).

Figure 2.1—Percentage of PAS Positions Filled, by Year



SOURCES: *Department of Defense Key Officials, 1947–1995* (1995), memoranda from D. O. Cook (1998), (1999), OSD and military department title reports (1998–1999), and Office of the Under Secretary of the Navy internal document (undated).

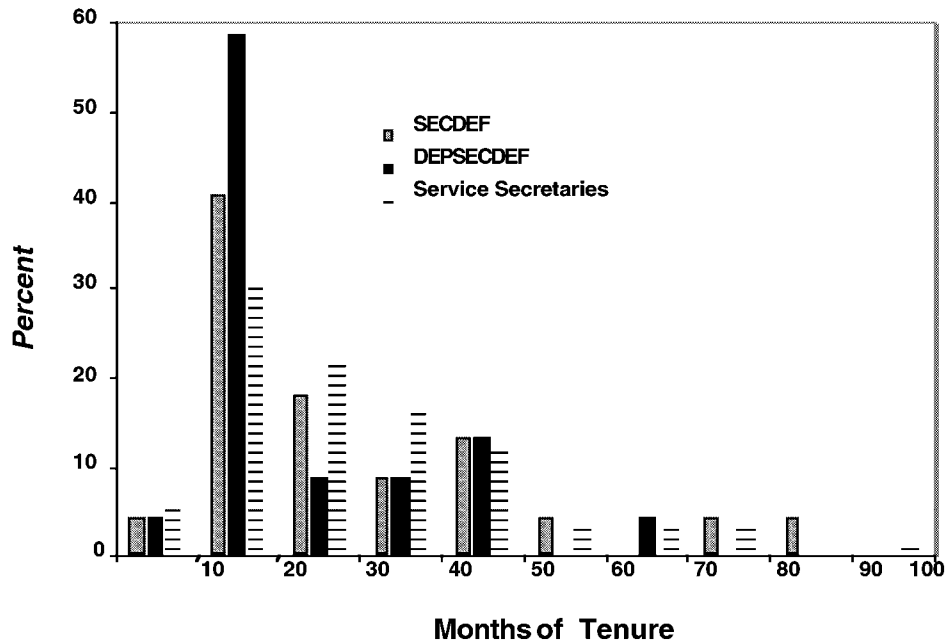
Figure 2.2—Percentage of Time PAS Positions Are Filled, by Presidential Administration

that position has been vacant only three times—for seven days in 1953, 38 days in 1973, and 59 days in 1989.<sup>15</sup>

### *Tenure of Individuals Serving in the Most Senior PAS Positions*

Figure 2.3 shows the distribution of length of service for the highest-level DoD presidential appointees. Secretaries of Defense have served for 30 months on average; most tenures have been from 11 to 20 months. Secretary McNamara served a record 85 months, followed by Secretary Weinberger (72 months) and Secretary Wilson (56 months). Secretary Richardson served the shortest tenure of four months. Deputy Secretaries of Defense have served for 23 months, on average, from 1947 to 1999; like the Secretary of Defense, most have served 11 to

<sup>15</sup>The data set shows the months by years that all PAS positions in the OSD and the Department of the Navy, and secretary positions in the Department of the Army and Department of the Air Force, have been vacant from 1947 to May 31, 1999. It also shows the months by years that the Department of the Army and Department of the Air Force PAS positions have been vacant (and filled) from January 20, 1993, to May 31, 1999 (but not before 1993).



SOURCES: *Department of Defense Key Officials, 1947–1995* (1995), memoranda from D. O. Cook (1998), (1999), and OSD and military department title reports (1998–1999).

Figure 2.3—Distribution of Tenure for Individuals Serving in Senior PAS Positions

20 months. Deputy Secretary Taft was the longest serving (63 months), followed by Deputy Secretary Clements, Jr. (48 months), and Deputy Secretary Atwood (45 months). Military department secretaries also typically serve 11 to 20 months. The three longest serving were Secretaries Marsh (Army, 96 months), Lehman (Navy, 74 months), and Resor (Army, 72 months). The three with the least service were Secretaries Rourke (Air Force, four months), Gray (Army, nine months), and Connally (Navy, ten months).

Short tenure in PAS positions appears to be government-wide. From October 1981 to September 1991, the U.S. General Accounting Office (1994) found that the median tenure for all federal agencies was 2.1 years.<sup>16</sup>

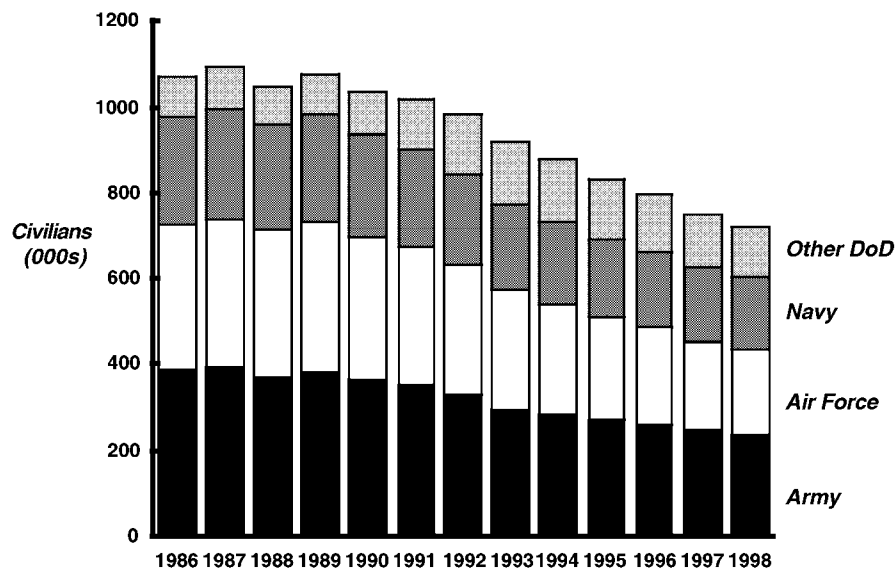
<sup>16</sup>The U.S. General Accounting Office (1994) also estimated median tenures for DoD that were similar to those we report: 2.5 years for the Air Force, 2.3 years for the Army, 1.8 years for the Navy, and 1.7 years for the OSD.

### *Patterns in Political Appointments Versus the Rest of the Civilian Workforce*

In response to the end of the Cold War, the DoD conducted a major downsizing—known as a drawdown—of its military and civilian workforces. While the total number of DoD military members and civilians declined by roughly one-third during the 1990s (Figure 2.4), the numbers of individuals serving in PAS, noncareer SES, career SES, and Schedule C positions did not mirror this trend (Figure 2.5).

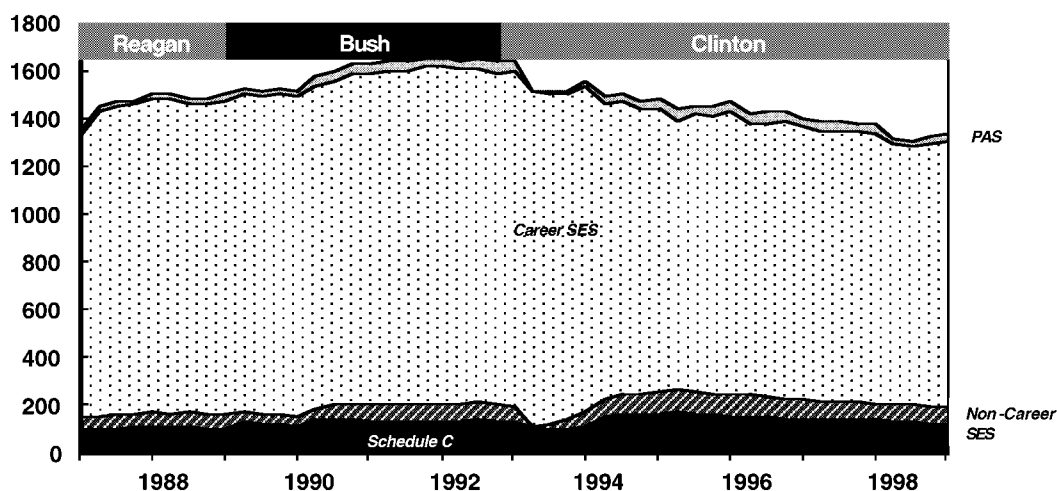
From 1989 to 1998 the DoD civilian workforce decreased from roughly 1.1 million to approximately 720,000, a reduction of about one-third (Figure 2.4). The Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) forecasts a planned cut of 80,000 more personnel by the end of FY 2003, to achieve a total downsizing of 41 percent from 1989 civilian workforce totals.

Figure 2.5 shows the number of PAS, Schedule C, noncareer SES, and career SES appointments to the DoD as recorded by the Defense Manpower Data Center (DMDC). From 1987 to 1993 the number of career SES employees (who are not political appointees) increased slightly. Starting in 1994, however, the number of career SES appointees began to decrease, and that trend continued through FY



SOURCE: DMDC.

Figure 2.4—Number of DoD Civilians, 1986–1998



SOURCE: DMDC.

Figure 2.5—Number of Individuals Serving in PAS, Schedule C, Noncareer SES, and Career SES Positions, 1986–1998

1998. By the end of FY 1998, the total DoD civilian workforce had declined by 34 percent compared with 1989 levels, and the number of career SES employees had declined by 15 percent.<sup>17</sup>

The change in numbers of individuals serving in PAS, noncareer SES, and Schedule C appointments followed a cyclical trend. For the most part, during the beginning years of an administration, the number of appointees increased as they joined the new administration. During the second half of the administration, the number of appointees in office waned. The nadirs in Figure 2.5 correspond with changes in presidential administrations. These low points occur during transitions, when appointees from the old administration have departed and appointees from the new administration have not yet begun to serve.

Figure 2.5 displays the change in the number of appointees actually serving in PAS positions, not the change in the numbers of positions themselves.<sup>18</sup>

<sup>17</sup>At the end of FY 1989, there were 1334 career SES employees in DoD. By the end of FY 1998, that number had shrunk to 1101. (Source: DMDC.)

<sup>18</sup>Tables 2.1 and 2.3–2.5 show the number of positions in the OSD and the military departments as authorized by Title 10. In 1987, there were 36 PAS positions in the OSD and the military departments. At the end of FY 1998, there were 45 PAS positions. During a drawdown of 33 percent of the total civilian forces, the number of authorized PAS positions increased 25 percent. However, at the end of FY 1998, only 37 of these 45 positions were filled. Sources: DMDC and data set.



### 3. The Appointment Process and Rules Governing Political Appointees

Attracting people with desired experience and attributes to PAS positions is not as straightforward as it might appear. Potential candidates face numerous deterrents to political appointments, both to PAS positions and to noncareer SES positions. Figure 3.1 underscores the all-too-frequent results of the deterrents—desirable candidates drop out. Therefore, understanding the political appointment process is essential for understanding the obstacles that deter potential appointees from serving in the DoD. This section first describes the appointment process and then discusses the deterrents to service.

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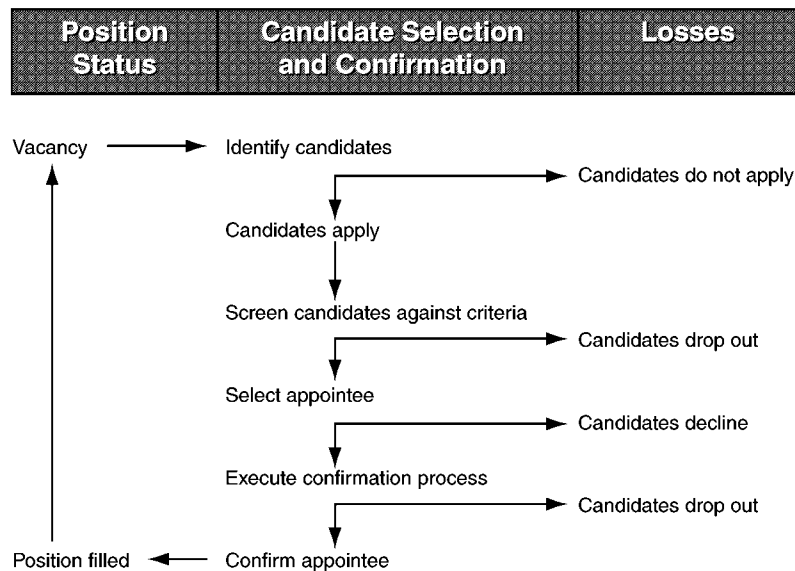


Figure 3.1—Process for Filling Appointed Positions Requiring Senate Confirmation

## The Political Appointment Process<sup>1</sup>

As Figure 3.1 illustrates, the first stage in the appointment process is the identification of candidates for appointment. Identifying potential appointees for a new administration occurs in the “slightly structured chaos” that happens just after election of a new President. Volumes of names and resumes rush in. As Constance Horner, Director of Presidential Personnel for the end of Bush’s term, explains, “In spite of low pay, difficult conflict-of-interest rules, the need to move a family for what may be a short-term stay (the average length of service for a political appointee has been about two years), and increasingly, the potential for reputation-destroying partisan attacks during confirmation, the jobseekers continue to come” (Horner, 1993). Those seeking political appointments recognize that the change in administration causes a high turnover of appointees.

Historically, the President and his close aides focused their selection on only the high-level (cabinet) positions. However, there has been a trend to centralize personnel power within the White House. Weko (1995) explains that the White House has become centrally involved in personnel decisions: “Since the middle of the twentieth century, presidents have struggled to extend their control over the national government by aggressively centralizing authority in a vastly expanded White House staff and by politicizing the federal bureaucracy—by pushing presidential loyalists deep into the agencies of the Executive Office and the executive branch.”<sup>2</sup>

The White House Office of Presidential Personnel and the federal agencies conduct vigorous searches for potential PAS and noncareer SES candidates.<sup>3</sup> Within the DoD, the OSD Office of Executive Resources (OER) plays a central role in identifying potential candidates. When a PAS or noncareer SES position becomes vacant, the OER attempts to find the candidate who, in the eyes of both the DoD and the agency the candidate would lead, possesses the most technical expertise and connection to the administration. According to the OER, political

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<sup>1</sup>Sources used to compile this synopsis of the appointment process were Mackenzie (1996 and 1998) and Macy et al. (1983). Unless another source is indicated, the information is from Mackenzie.

<sup>2</sup>Weko also notes that in the Reagan administration, political appointments were extremely centralized from the start. Cabinet secretaries had to select their staff choices from a preselected slate. Mackenzie explains that in the Nixon and Carter administrations, appointees were given authority to choose their subordinates, i.e., there was less centralization, but the administrations later wished they had kept that personnel authority. Sarantakes (1998), writing about the State Department confirmation incident of 1944, illustrates that the desire for and presidential grasp of control is not only a recent phenomenon. Sarantakes explains that Franklin Roosevelt forced newly appointed Secretary of State Edward Stettinius, Jr., to accept Roosevelt’s choice for Under Secretary of State, Joseph C. Grew, and FDR’s choice for six assistant secretaries.

<sup>3</sup>Interview with official from the Office of the Secretary of Defense, February 11, 1999.

connections are important, although less so for noncareer SES positions. The OER consults defense advisory boards, people serving in career SES positions, and numerous other networks, such as summer-studies groups and task forces, to identify potential nominees. Potential candidates identified as a result of this search write paragraphs that describe their technical expertise, their network and/or political connections, and the name of the person or organization that will sponsor them as a candidate.

In addition to the DoD, other groups are often involved in searching for potential appointees. These groups often hope that their input will result in political positions for their members. Presidential campaign leaders may request that their loyal workers be rewarded with appointments. Additionally, congressional members, politicians, interest group leaders, and old presidential friends may clamor for their designees (or themselves) to be appointed.

The Clinton administration employed a selection method of extensive consultation and coordination between the OER, networks, and the Office of Presidential Personnel that eventually produced a short list of names of people who were interested in serving in political appointments.<sup>4</sup> They made no promises as to whether the individuals would be appointed. For each vacant position, the OER sent a single candidate recommendation along with a paragraph listing other candidates considered and not recommended. This recommendation was sent to the head of the Office of Presidential Personnel, which approved noncareer SES appointments.

Lists of candidates for vacant PAS positions go through the Office of Presidential Personnel for approval. Sometimes the President selects one of the candidates considered but not recommended by the OER. Once the President approves a candidate, the vetting process begins. The OER advises candidates to expect the background FBI investigation, the Internal Revenue Service (IRS) investigation, and the financial review to take three to four months. The OER instructs candidates not to tell anyone during this time about their candidacy.

After the nominee has been identified, "staffing around" frequently occurs, as the Presidential Personnel Office invites high-level White House staff to comment on the choice of nomination in order to "uncover any potential land mines." Weko (1995) explains that Clinton, early in his administration, had a special staff whose

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<sup>4</sup>However, Macy et al. (1983) state: "Selection decisions are enigmatic. . . . While tendencies emerge in almost every administration with regard to the allocation of control between the White House and the departments, the fact is that no two decisions are ever made in exactly the same way. Designation of a primary candidate is a critical step in the selection process. The White House and the departments are natural and inevitable competitors for control of it. Each will win some and lose some."

only job was to go through records to research whether there would be any problems that might come up during the process.<sup>5</sup> At this time, the White House often checks with congressional leaders for their initial reactions to the potential choice of the individual as a political appointee.<sup>6</sup> During this vetting process, White House staff and DoD officials ask the candidate to complete a personnel data statement questionnaire.<sup>7</sup> The questionnaire asks about:

- personal and family background;
- any medical condition that could “interfere with your ability to fulfill your duties”;
- activities “from which you have derived earned income (e.g., self-employment, consulting activities, writing, speaking, royalties and honoraria) since age 21”;
- any published work authored;
- detailed financial information;
- any law or administrative agency proceedings that the candidate has been involved with as a party;
- memberships with “civic, social, charitable, educational, professional, fraternal, benevolent, or religious organization[s], private club[s] or other membership organization[s] (including any tax-exempt organization[s]) during the past 10 years”;
- employment of domestic help;
- whether he or she has ever paid child support payments late; and
- whether he or she has “had any association with any person, group, or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for a government position.”

The questionnaire concludes with two final questions:

- “Do you know anyone or any organization that might take any steps, overtly or covertly, fairly or unfairly, to criticize your appointment, including any

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<sup>5</sup>Weko (1995) refers to this as “another bow to the demands of sharply ideological and media-centered politics.” Mackenzie (1998) is also critical of the amount of vetting done by the White House: “Much of the decisionmaking during the second-term transition seemed paralyzed by the fear of nominating anyone controversial.”

<sup>6</sup>Mackenzie (1998) states that “this is essentially a process of information exchange and, except in a few cases, not much more. . . . In reality, the vast majority of congressional clearances result in pro forma approval.”

<sup>7</sup>A copy of this questionnaire was provided in Mackenzie (1996).

news organization? If so, please identify and explain the basis for the potential criticism.”

- “Please provide any other information, including information about other members of your family, that could suggest a conflict-of-interest or be a possible source of embarrassment to you, your family, or the President.”

The questionnaire informs the potential candidate that White House reviews begin once the questionnaire is submitted; the candidate is asked to return the form within 24 hours to the Office of Counsel.

Once the paperwork is returned, the White House analyzes the responses and determines if there are any potential conflicts that could jeopardize the candidate’s support of presidential policy. The White House may also run a “name check” with the FBI at this stage to determine whether the candidate has a criminal record (Macy et al., 1983).

The next stage occurs as the FBI begins its full-field investigation,<sup>8</sup> which includes matters involving “birth, naturalization, education, marital status, employment, military service, relatives, neighbors, associates, references, affiliations with ‘questionable organizations,’ associations with ‘questionable individuals,’ and taxes.” Estimates vary on the length of time the FBI investigation typically takes; Macy et al. (1983) peg the timing at two to eight weeks. The investigations are scheduled to be completed in 25 to 35 days, but delays in receiving records or reports or a need for further investigation may postpone the completion date. In the interim, the FBI sends initial results to the White House. The individual must also send the IRS a tax-check waiver so that the White House Office of Counsel may review information such as whether the individual failed to file a tax return on time or whether he or she had ever been under IRS investigation.<sup>9</sup>

The next step in the process involves the resolution of any conflict-of-interest issues. The individual is required to file an SF 278 Public Financial Disclosure Report Form on his or her holdings and on the holdings of his or her spouse and dependent children.<sup>10</sup> The SF 278 asks respondents to list:

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<sup>8</sup>These investigations began in 1953 after President Eisenhower issued Executive Order 10450 (Mackenzie, 1996).

<sup>9</sup>The tax-check waiver is presented in Mackenzie (1996).

<sup>10</sup>In addition, presidential and vice-presidential candidates are required to complete the form, as are military officers above the O-6 pay grade who are appointed by the President and confirmed by the Senate. All government employees and officers who are above the GS-15 classification, or who earn 120 percent of the minimum rate of basic pay for GS-15, are required to complete the form—i.e., career SES employees as well as the PAS and noncareer SES appointees.

- income and assets worth over \$1000 for the reporting period;
- gifts, reimbursements, and travel expenses totaling \$250 or more;
- loans over \$10,000;
- agreements regarding continuation of employee benefits;
- agreements regarding continuation of payment from a former employer such as a severance package;
- arrangements regarding leaves of absence and future employment;
- positions held during the reporting period, such as officer, trustee, general partner, employee, or consultant, including positions that were uncompensated; and
- compensation of more than \$5000 during the reporting period from any one source to the individual or to the individual's business affiliate.

Once the nominee submits the SF 278, the White House Counsel reviews and assists the individual in finalizing the form. Next, the DoD's designated agency ethics officer (DAEO) reviews the form—with the nominee if he or she prefers—and determines whether there are any additional DoD-related conflicts. The DAEO then notifies the nominee in writing of any asset issues that must be resolved and provides a prescription for settling the conflict along with a date by which the nominee must complete the stipulation. If the nominee is unwilling to resolve the conflict-of-interest, then he or she drops out, removing himself or herself from consideration.

Next, the DAEO officer certifies and sends the SF 278 to the Office of Government Ethics (OGE) along with a position description<sup>11</sup> and a letter stating that the DAEO has found no conflict-of-interest and that any previous conflict issues have been resolved. OGE reviews, signs, and files the report if the individual is nominated for a noncareer SES position.

For a PAS position, the OGE sends the report to the Senate committee with jurisdiction for DoD appointments, the Senate Armed Services Committee. To begin the formal Senate confirmation process, the President sends a message to the Senate publicly announcing the nominee's candidacy for the PAS position, after which the message is read on the Senate floor. It is then sent to the clerk for processing and the file is transferred to the appropriate Senate committee.

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<sup>11</sup>PAS position descriptions, when they exist, tend to be a short paragraph based on statute that describes the historical mission of the office. They are generally written by staff in the office of the position to be filled and are not official personnel documents.

Each Senate committee has its own forms that the nominee must complete prior to the committee hearing. The committee reviews the completed Senate forms along with the financial information from the SF 278. Mackenzie notes that in some cases the committee may ask the nominee to respond to additional written inquiries.<sup>12</sup>

Each committee has the power to set individual rules and policies for nominees. The Armed Services Committee imposes strict constraints on candidates that other Senate committees and oversight committees to other federal agencies do not necessarily impose. The Armed Services Committee does not tolerate activities that presume the outcome of the confirmation process.<sup>13</sup> Therefore, during the months of vetting prior to the confirmation hearing, a candidate for a DoD political appointment may not serve as a consultant to the DoD or attend meetings in the Pentagon or elsewhere if the candidate's action would appear to presume confirmation. This applies to officials currently serving in other DoD positions as well as to external nominees. It does not, however, prohibit current DoD officials from fulfilling the duties of their current position.<sup>14</sup> The key is that the individual must refrain from engaging in any activity that might be perceived to presume the outcome of the confirmation process.

The committee then holds a hearing that usually results in the recommendation of approval for the nominee. After the committee rules on the nomination, it reports the vote, whether positive or negative, to the full Senate. The legislative clerk calendars the nomination for a full-Senate vote.

Although most nominations are confirmed, Mackenzie (1996) is nevertheless concerned that recent Senate actions—such as holding grueling committee hearings and causing purposeful delays in consideration of nominees (known as “holds”)—and the ensuing publicity about such actions may be a strong deterrent to those considering whether to accept an appointment. The time from receipt of the nomination to confirmation by the Senate has increased in the past three decades. In the Johnson administration, the median time was four weeks; by the end of Reagan's first term, the delay had increased to 14 weeks.<sup>15</sup>

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<sup>12</sup>Mackenzie (1996) states that the Senate committees tend to be suspicious of the quality of the FBI investigation. He cites information that the FBI missed in the Clarence Thomas case and the Douglas Ginsburg case.

<sup>13</sup>Interview with Senate Armed Services Committee staff official, May 19, 1999.

<sup>14</sup>Prohibited “presumption of confirmation” activities still apply in the case of a principal deputy to a vacant PAS position temporarily serving as the “acting” PAS and who is nominated for the PAS position. In this case, the principal deputy's normal responsibilities require attending meetings and making decisions that substitute for the vacant PAS. Therefore, this activity is not considered to presume confirmation.

<sup>15</sup>Data are derived from the National Academy of Public Administration Appointee Survey Data Base, from Deering (1987).

Mackenzie (1996) includes the time spent nominating the candidate as well as the length of time during the confirmation phase and reports that the typical delay was 2.4 months for the Kennedy administration, 8.1 months for Bush, and 8.5 months for Clinton.

## **Procedural Deterrents to Accepting Appointments**

The convoluted nature of the current process may itself be a deterrent for individuals who might otherwise be interested in serving as a political appointee.<sup>16</sup> As Mackenzie (1998) notes,

Ideally, the appointment process should ensure a steady and reliable flow of leading Americans, from all over the country and all walks of life, to staff the top positions in the federal executive branch and the federal judiciary. It should encourage the most talented Americans to serve and to stay in their positions long enough to permit full utilization of their talents and skills. It should move these people swiftly and efficiently into their federal jobs to prevent long vacancies in critical positions and painful disruptions and uncertainty in individual work lives. Qualifications of potential appointees should be carefully, but fairly, considered, with primary attention to those matters that affect their ability to serve the public skillfully and honestly. . . . The recent evolution of the presidential appointment process has steadily weakened its capacity to do any of these things.

### ***Deterrent: Confidentiality of Paperwork Submitted***

The paperwork presented to the White House Office of Counsel by the individual, the FBI, and the IRS is protected by the Privacy Act. However, potential nominees may be concerned about leaks of private information to the public. In the case of Tony Lake's nomination as Director of Central Intelligence, information was routinely leaked. Lake removed himself from consideration in response to the frustrations of the confirmation process (Mackenzie, 1996).

### ***Deterrent: Conflict-of-interest<sup>17</sup>***

The specter of having to resolve the complex issues concerning conflicts of interest is a possible discouraging factor for potential political appointees, especially if the potential nominee (or the nominee's spouse or dependent

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<sup>16</sup>This is addressed in National Academy of Sciences (1992), Trattner (1992), Mackenzie (1996, 1998), and Macy et al. (1983).

<sup>17</sup>Unless another source is indicated, this section is based on Roberts and Doss (1996).



children) has financial interests in the defense industry. As explained earlier, the potential nominee is required to eliminate conflicts prior to appointment to a position. This section describes the requirements to resolve these conflict-of-interest issues and the options that an individual has for eliminating conflicts.

According to the Senate Armed Services Committee and the OER, the committee has a strict interpretation on what constitutes appropriate conflict-of-interest resolutions for individuals being considered for DoD PAS positions. The committee does not have a written policy regarding resolution of conflict-of-interest, and considers each conflict-of-interest situation on a case-by-case basis.<sup>18</sup> However, the OER reports that the committee's preferred method is complete divestiture of holdings related to the defense industry rather than the implementation of blind trusts, waivers, or recusals to resolve conflicts of interest. Nevertheless, in order to further the understanding of the complicated conflict-of-interest landscape, this section discusses all methods of conflict resolution—recusal, waiver, blind trust, and divestiture—and gives a historical perspective on this issue.

**The Recusal Recommendation by the Second Hoover Commission.** The study of conflict-of-interest and the possible deterrent such regulation might serve in influencing candidates to decline political appointments dates back to the mid-20th century. In 1955, the Second Hoover Commission, studying the organization of the executive branch, issued a report on the DoD (Second Hoover Commission, 1955). The commission was particularly concerned with conflict-of-interest resolution and the fact that potential candidates might be deterred from accepting an appointment for conflict-of-interest reasons. It recommended recusal as the preferred method of conflict-of-interest resolution to avoid forcing candidates to divest all business holdings as a prerequisite to accepting an appointment. The commission advocated that appointees take an oath promising to recuse themselves from any decision involving company or financial interests. This oath was to be part of the regular oath taken upon assuming the appointed office. Although the commission's recommendation was not implemented, the recusal method has frequently been used in the executive branch to eliminate conflict-of-interest. Section 18 of U.S.C. 208 is the statute that regulates conflict-of-interest matters and permits appointees to use the recusal method to avoid conflict-of-interest. Even though this method of conflict-of-interest resolution is legal, however, Roberts and Doss assert that recusals are problematic. They cite Roberts' guide, stating that if one recuses

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<sup>18</sup>Interview with Senate Armed Services Committee staff official.

oneself frequently, then one cannot “effectively discharg[e] the duties of the position to which [one] has been appointed.”

**The Waiver Provision and the 1962 Conflict-of-Interest Law.** Roberts and Doss (1996) present a comprehensive study of the history of conflict-of-interest regulations. They discuss in depth the 1962 conflict-of-interest law signed by President Kennedy that “prohibits an executive branch official from participating in an official capacity in any particular matter which may affect a financial interest held by the official, the official’s spouse, minor children, business associates, and certain other entities” (Roberts, 1988b). At the time Congress wrote the bill, the Kennedy White House requested a process by which waivers from the above prohibition could be provided. A limited-waiver process was established in the bill that future presidents were reluctant to use for fear of possible public outcry against the President and against an appointee who actually used a waiver. The little-utilized waiver process established in the 1962 law sets up two types of waivers. One type can be granted if the individual authorizing the appointment (the President or the department in the case of an SES appointment) concludes that the financial interest involved is not substantial. A second type of waiver may be published in the *Federal Register* if the financial interest is “too remote or too inconsequential to affect the integrity of the Government officers’ or employees’ services.”<sup>19</sup>

**Blind Trusts and the Ethics Act of 1978.** Since the waiver process was not frequently used for eliminating conflict-of-interest concerns, nominees were obligated to look to other methods to resolve conflict-of-interest issues. In one method frequently used in the Kennedy and Johnson administrations, the individual would put the money from a prohibited financial interest into a blind trust, which precluded the appointee from having direct control or knowledge of the specific assets (Roberts, 1988b). At the time, however, there was no formalized process for determining when to require these blind trusts and no specific rules dictating how to create them. Instead, negotiation between the White House, the Office of Legal Counsel, and the Senate Committee formulated the blind trust details.

The Ethics Act of 1978 formalized the blind trust process, defining two permissible types: the qualified blind trust (QBT) and the qualified diversified trust (QDT).<sup>20</sup> The QBT did not, in and of itself, resolve conflict-of-interest issues; the individual had to use a waiver or recuse himself or herself to prevent

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<sup>19</sup>Quoted from Roberts (1988a) in Roberts and Doss (1996). Roberts and Doss have consulted other waiver information from Murdock (1990).

<sup>20</sup>Terms are from Fox and Herpe (1993), quoted in Roberts and Doss (1996).

conflict-of-interest. By contrast, the QDT did resolve conflicts according to the Ethics Act. Consequently, the QDT was more desirable for an appointee, but it was much more difficult to set up.<sup>21</sup> Roberts and Doss conclude that “in the long run, Ethics Act blind trusts have proved too cumbersome and costly for the majority of presidential nominees looking for ways to resolve financial conflict-of-interest problems.” Therefore, nominees returned to the recusal method to avoid conflict.<sup>22</sup>

**Divestiture and the 1989 Ethics in Government Act.** Nominees historically avoided divestiture as a means of resolving conflict because they would have been taxed on the capital gains earned from the investment. The Administrative Conference of the United States (ACUS), studying the conflict-of-interest issue in 1988, concluded that there was a strong disincentive to divestiture and that the tax liability of forced divestiture was a strong deterrent to potential candidates considering a political appointment position.<sup>23</sup> The Administrative Conference of the United States recommended establishing deferred taxation of gain for individuals required to divest of holdings for conflict-of-interest reasons.<sup>24</sup>

The Commission on Federal Ethics Law Reform, established by President Bush in 1989 as his first executive order, strongly recommended the tax-deferred divestiture option, which was adopted in the Ethics Reform Act of 1989. The tax-deferral provision permits nominees who are forced to divest holdings for conflict-of-interest reasons to roll over the proceeds from the sale of those holdings to an approved investment—a U.S. bond or a diversified investment fund approved by the OGE. The individual is not taxed on the investment until he or she cashes out from this approved fund.

Roberts and Doss (1996) state that the “deferred taxation of gain provision of the Ethics Reform Act of 1989 has become an extremely important tool for easing the transition of individuals from the private sector into positions as presidential nominees and appointees. . . . It appears, after decades of searching, that an extremely effective way for resolving the financial conflict-of-interest problems of presidential nominees, political appointees and other federal employees now

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<sup>21</sup>Ibid.

<sup>22</sup>Roberts and Doss cite Moore (1989) in reporting that recusals were the most common tool used for avoiding conflict in the mid-1980s through the Bush administration.

<sup>23</sup>Administrative Conference of the United States Recommendation 88-4, 53 Fed. Reg. 26029 (July 11, 1988). The ACUS was disbanded on February 1, 1996. Detailed information on the survey undertaken by the ACUS in 1988 was not available.

<sup>24</sup>In 1985, a staff report to the Senate Armed Services Committee had also advocated the passage of a law permitting deferred taxation of forced divestiture (“Defense Organization,” 1985).

exists. Hopefully, in future years, the provision will help persuade successful men and women to accept positions as presidential nominees and appointees.”<sup>25</sup>

Although the introduction of a tax-deferred divestiture may blunt the sharp deterrence of an immediate tax penalty, any forced divestiture may be an economic deterrent to some individuals.

### ***Deterrent: Senate Confirmation***

Procedural issues at the Senate confirmation level may concern some appointees. According to Mackenzie (1996), “Nominees often complain that the requirements and forms imposed on them by Senate committees are sufficiently different from those employed by the White House and the OGE that a significant additional burden of information gathering and reporting is added to the appointment process when a nomination goes to the Senate.”

The fear of the Senate confirmation hearing itself may be a concern to appointees. However, according to Mackenzie, the majority of confirmation hearings are “routine”; it is the minority that garner the media’s attention and thus lodge in the public’s consciousness: “This imbalance in coverage contributes to a growing public perception—and a perception among potential nominees—that confirmation hearings are typically demeaning and brutal assaults on the reputations of presidential appointees” (Mackenzie, 1996).

This fear is not a recent phenomenon. For example, recruiting individuals with business backgrounds was difficult during the Nixon administration; potential nominees were reluctant to go through the confirmation process because their financial interests would be investigated and information made public.<sup>26</sup> In the 1970s, however, some considered the confirmation process as one of deference to the President’s preferences: In 1977, Common Cause criticized the Senators’ lax handling of confirmation hearings in *The Senate Rubberstamp Machine*.<sup>27</sup> Mackenzie (1996) states that the Senate confirmation process has become more vigilant in the past two decades, and even by the early 1980s, the Senate was

<sup>25</sup>Roberts and Doss (1996) point out that the Office of Government Ethics issues certificates of divestiture only for forced (involuntary) divestiture. They report that between 1990 and 1993 the OGE issued 461 certificates of divestiture.

<sup>26</sup>Roberts (1988a), quoted in Roberts and Doss (1996). The potential nominees were concerned because they themselves were Nixon Republican appointees and the Senate was under Democrat control. Roberts and Doss note, however, that “the majority of Nixon nominees experienced little trouble receiving confirmation from the appropriate Senate committee”; the nominees’ fears of difficult confirmations did not come to pass.

<sup>27</sup>Common Cause (1977), referenced in Mackenzie (1996).

“aggressively reviewing and occasionally rejecting Ronald Reagan’s nominations.”<sup>28</sup>

King and Riddlesperger (1991) report that “presidents since Nixon have found greater proportions of their nominations encountering significant opposition in the Senate. More importantly, questions of public policy—once viewed as inappropriate—have come to dominate confirmation deliberations. As a result, the confirmation process is best viewed as an extension of the policy struggle between the White House and Capitol Hill.” Although King and Riddlesperger focus on Cabinet-level and Executive Office of the President appointments, more difficulty in Senate confirmation hearings may also negatively influence individuals considering subcabinet-level positions in the DoD.

In a 1992 Senate task force report (U.S. Senate, 1992), the Senate addressed the confirmation process and evaluated its performance in confirming political appointees. The report states: “Several recent confirmations of presidential nominees have generated intense interest in the confirmation process. Much of this scrutiny has focused on only a few of the thousands of nominations which are routinely and expeditiously considered by the Senate during each legislative session. Most confirmations are considered without fanfare and with little public attention.” However, Senator Mitchell added: “Nonetheless, there have been several contentious nominations of the past few years. Though they are few in number, these are experiences that none of us involved in the confirmation process—either in the White House or the Senate—should wish to repeat.”

The task force report defended the Senate’s behavior in confirmation processes: “The Task Force has carefully examined current Senate Rules and has concluded that they provide a sound basis for conducting the confirmation proceedings in a manner that balances the nominee’s privacy interest and the public interest in open confirmation proceedings. It would be a mistake for the Senate to abandon its role of ‘advice and consent.’”

The Senate report then defended its role in the appointment process: “The Constitution does not speak of a confirmation process. It assigns to the Senate the responsibility to provide its ‘advice and consent’ before nominees are permitted to assume government office.” The report blamed the executive branch for delays in filling vacant PAS positions.

By 1997, however, scholars and the press held the Senate itself culpable for hindering the appointment process. Mackenzie (1998) also reported that “efforts

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<sup>28</sup>The Senate at this time was also under Republican control.

by individual senators to block action on nominations reached unprecedented levels in 1997.” The use of holds and filibusters had increased: “In the 1990s and in 1997 especially, holds have become an increasingly common presence in the appointment process. Senators who want more information before voting on a nomination, senators who simply want to delay a nomination in order to defeat it, or senators who want to hold nominees hostage while they seek concessions from the president now routinely use holds as a component of modern legislative-executive relations.”

The actions taken by senators to block nominations have gotten press attention, and consequently individuals who follow the sagas of holds in the Senate may consider declining offers of political appointee positions to avoid the chance of a difficult Senate confirmation and consequent media coverage. For example, William Weld’s nomination for Ambassador to Mexico—and the subsequent actions of the Senate—garnered strong negative media attention. The *Economist* was particularly critical, asserting that the ability of the Senate to use “archaic rules, such as the block and the filibuster, can be deliberately deployed to cause maximum damage.”<sup>29</sup> The *Economist* has continued to publish critical pieces concerning the Senate’s behavior in confirming appointees.<sup>30</sup>

Mackenzie (1998) summarizes that from January to October 1997 a total of 42 nominees were placed on hold after approval from the relevant Senate committee: “Most of the holds have little to do with the qualifications of the nominees upon whom they are placed. Much more often, the nomination is held hostage to give a senator some leverage in a policy disagreement with the administration.” Furthermore, Mackenzie states that “the opposition party, whether Democratic or Republican, no longer feels any significant obligation to defer to the president in the selection of executive branch appointees. The president’s ability to govern is thus diminished in two ways. One is that he has less freedom to pick his own subordinates than almost any other political executive in America. The other is that it takes a very long time to do the picking

<sup>29</sup>“Not by Helms Alone” (1997), pp. 20–21.

<sup>30</sup>From “A Tyrannous Minority” (1998), pp. 24–25: “The Senate, which confirms presidential nominees, has grown increasingly stropky. Until the 1980s the Senate seldom blocked a nomination, believing that the president had a right to choose his team, so long as its members were not corrupt or underqualified. Since the defeat of Robert Bork’s nomination to the Supreme Court in 1987, this has changed. Now a nominee’s views, and the minute detail of his life, can turn the Senate against him. Sometimes a nomination is blocked for reasons that have nothing to do with the nominee, and everything to do with some unrelated dispute between president and Senate. . . . The Senate’s willingness to block nominees on ideological grounds reflects a larger shift in American politics. It used to be that, having won election, the president was presumed to have a mandate to rule, so the Senate felt obliged to defer to his appointments. Now, in an era of constant polling and the permanent campaign, elections no longer confer much authority on the victor. Administration and congressmen alike immediately launch themselves on the next election, and fights over nominations become one of the battlefields.”

because of the constant need to anticipate and avoid partisan conflict in the confirmation process.”

Concerns about extensive negative media coverage during the appointment process and afterward might also be a deterrent to individuals considering an appointment position. Weko (1995) interviewed a White House aide who commented in the following manner on the role of the media in the appointment process:

Let's face it, the way in which the media covers these things [presidential appointments] has changed dramatically. You've got CNN and all these news shows, and *USA Today*, and all this instantaneous news. And there is much more appetite for information, and there are more reporters and more digging. People who got famous (i.e., whose appointments became controversial and newsworthy) wouldn't have years ago because there wasn't the availability in air time or newspaper space to write about it, and there weren't the reporters to cover it.

In conclusion, Mackenzie (1998) maintains that the confirmation process has worsened, that President Clinton did not defend his choices in appointments, and that the process itself is a strong deterrent to individuals who might be interested in serving in political appointment positions: “Frequent, widely publicized appointment controversies subtracted further from the appeal these appointments now hold for many talented Americans. Nothing that happened in 1997 will make it easier to recruit excellent presidential appointees in the future.”

In 1999, the confirmation process remained a volatile issue—as shown by the widespread attention that Clinton's recess appointment of James Hormel received. Clinton had nominated Hormel in 1997 for Ambassador to Luxembourg. The Senate Foreign Relations Committee approved the nomination, but the full Senate never voted on Hormel's nomination because Senator Trent Lott (R-MS) placed an indefinite hold on it. In response to this blocking of the nomination vote, Clinton used a recess appointment that would allow Hormel to serve until December 2000, the end of the congressional term.

In a rejoinder to Clinton's action, Senator James Inhofe (R-OK) placed a hold on all nonmilitary presidential nominations submitted to the Senate for confirmation. In his statement of response, Inhofe proclaimed: “President Clinton has shown contempt for the Congress and the Constitution. He has treated the Senate confirmation process as little more than a nuisance which he can circumvent whenever he wants to impose his will on the country (Dewar, 1999). Inhofe's intent in placing the hold was to force Clinton to abstain from

using the recess appointment provision unless he notified the Senate prior to making the appointment.<sup>31</sup>

Inhofe's action caused ripples of concern in global markets—the value of the dollar fell as investors feared Inhofe's hold might delay the nomination of Lawrence Summers as Treasury Secretary (Cohen, 1999). Hormel's appointment and Inhofe's reaction caused varying responses from the media, ranging from support of Inhofe's action ("Clinton's Perpetual Insults," 1999) to a blistering criticism of the senator (Cohen, 1999). Clinton did send a letter agreeing, in the future, to notify the Senate prior to making recess appointments. In any case, the issue of holds and delay in Senate confirmation yet again received widespread press coverage—and may deter potential PAS candidates.<sup>32</sup>

## Postappointment Deterrents

### *Deterrent: Postemployment Restrictions*<sup>33</sup>

A plethora of postemployment restrictions apply to individuals departing government service. The nature of restrictions depends on the level of the position held while working for the government. The following restrictions apply to all government employees leaving their office:

- A lifetime prohibition against "knowingly mak[ing], with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter . . . in which the person participated personally and substantially as such officer or employee" (18 U.S.C. §207[a][1][B]).

<sup>31</sup>Inhofe stated that his threat of holds was in the tradition of Senator Robert Byrd, who used the prerogative in 1985 to stop Reagan from making recess appointments (Dewar, 1999).

<sup>32</sup>In response to the current situation, *Washington Post* columnist Richard Cohen condemned Inhofe's action and focused on the impact of Senate confirmation tactics with regard to Richard Holbrooke's nomination to the United Nations. Cohen angrily chronicled Holbrooke's lengthy delay, caused first by conflict-of-interest disputes and then potentially by a promise of a hold. Cohen concluded: "I wonder about Holbrooke. I wonder about a man who wants to be in government so badly that he spent a year of his life filling out government forms, yearning to make policy when other men—real men—yearn only to make money. Me, I might settle for \$1.5 million a year and the freedom to do what I want. Holbrooke, his mind addled by patriotism or something, has hung in" (Cohen, 1999).

<sup>33</sup>Additional restrictions apply to individuals who participated in trade or treaty negotiations (18 U.S.C. §207[b]). We are assuming, for purposes of this discussion, that ex-DoD employees did not participate in such negotiations.



- A two-year restriction on any former government employee's acting as a representative (as defined above) "concerning particular matters under official responsibility" (18 U.S.C. §207[a][2]).

These prohibitions do not prevent an individual from accepting employment from a company that does business with the government. The restrictions prevent the former-government employee from making a formal appearance in reference to the "particular matter" in which the ex-employee "participated personally and substantially" or a matter that was under the ex-employee's "official responsibility."

PASs paid at the EL-V or EL-IV level and noncareer SESs whose salaries are at or above the EL-V level (\$110,700 in 1999) must agree to the following commitment in addition to the previous restrictions:<sup>34</sup>

- A five-year restriction against lobbying the employee's former agency: "I will not, within five years after the termination of my employment as a senior appointee in any executive agency in which I am appointed to serve, lobby any officer or employee of that agency" ("Ethics Commitments by Executive Branch Appointees," 1993).
- A lifetime restriction against acting as a representative for a foreign government or foreign political party: "I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party" ("Ethics Commitments by Executive Branch Appointees," 1993).

In addition to the previous restrictions, noncareer SESs paid at the levels of ES-5 and ES-6 and PASs paid above the EL-IV level are subject to the following:

- A one-year restriction against lobbying the employee's former agency regarding any official action (18 U.S.C. §207[c]).
- A one-year restriction against "represent[ing] a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or [aiding or advising] a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States" (18 U.S.C. §207[f]).

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<sup>34</sup>This assumes that the noncareer SES is working in Washington, D.C., and does not take into account variations in pay caused by locality pay rates.

At first review, these restrictions may seem confusing and overlapping. However, Clinton's executive order is considered a contract regarding postemployment issues and is more stringent than 18 U.S.C. §207. The executive order is a civil agreement, whereas 18 U.S.C. §207 is a criminal statute. The OGE administers 18 U.S.C. §207 but does not enforce the executive order.<sup>35</sup>

### *Deterrent: Occupational Obstacles*

Even beyond procedural deterrents, which were discussed earlier, the literature on the political appointment system notes several occupational deterrents that might discourage individuals from accepting political appointments. Macy et al. (1983), Michaels (1995), and Mackenzie (1992) address negative aspects of working at a PAS job, possible deterrents to prospective candidates who may have heard of these struggles through the Washington, D.C., grapevine. The list of potential occupational obstacles that deter individuals from serving includes possible economic losses (Mackenzie states that "salaries at the top level still lag considerably behind"); lengthy work hours and their impact on family life; spousal career issues (which, notes Mackenzie, makes relocating to Washington more complicated); the high cost of living in Washington; and the negative perception that potential candidates (and their associates) may have regarding government employment and the government itself.

Michaels (1995) reports that many presidential appointees find their jobs stressful. In a survey undertaken by Michaels and the Government Accounting Office, appointees reported the following causes of job frustrations:

- a perception of lack of control and lack of ability to make changes;
- little sense of completion of tasks;
- bureaucracy frustrations and the perceived inability to fire incompetent civil servants;
- financial constraints;
- competition among agencies and tensions stemming from loyalties split between the agency and the White House;
- media concerns; and
- a "zero defects/zero tolerance for error atmosphere" pressure to make judgments quickly and without adequate information.

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<sup>35</sup>Telephone interview with an OGE official, May 25, 1999.

These direct stresses from the job may be augmented by stress on the family caused by the PAS position. Michaels describes several types of job stress. Given the appointee's burdensome workload, appointees "often find it difficult to take time off for vacation." (Pursuant to 5 U.S.C. §6301[2][x] and explained in 5 C.F.R. [Code of Federal Regulations] §630.211, PASs do not accrue annual leave or sick pay, since they are considered to be on call all the time.) Moreover, Michaels notes that the Washington social scene and its gossip might be tiresome to some appointees and their families: "[Washington] is a very status-conscious town with a significant amount of black tie entertaining, often on a smaller salary than PASs previously enjoyed." Finally, spousal career concerns can bring on stress: "Washington is also overstocked with well-educated professionals, which makes it difficult for the spouse of a PAS to find appropriate, challenging work." However, Michaels reports that the weight of the stresses on the PASs depends on the background of the appointee: "Those who came directly to PAS service from a position in the federal government reported the easiest time in their job; those who came from academia, a research firm, or the private sector, the hardest."

### ***Deterrent: Retirement Benefits***

The issue of lost retirement benefits may be a deterrent for some individuals who might otherwise accept a political appointment position. The issue of retirement benefits is twofold: It relates both to potential lost benefits when appointees leave their previous employment and to the accrual of retirement benefits from the federal government.

When a potential candidate completes the SF 278 Public Financial Disclosure Report Form, he or she must report continuation in an employee benefit plan, including pension and deferred compensation plans, in addition to reporting severance payments and agreements about future employment. Each of these could potentially create a conflict-of-interest in the eyes of the OGE. The OGE's goal is to ensure that the potential appointee can make truly impartial decisions.<sup>36</sup> The potential candidate is permitted to keep severance pay as long as it was obtained prior to entering government service. However, since this pay is considered to be an asset of the nominee, he or she is obligated to report it.<sup>37</sup> The OGE will study the individual's retirement benefit plans, including pension plans or 401(k) plans. If the OGE determines that the benefit plans are diversified, then the holdings are not considered to create a conflict-of-interest.

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<sup>36</sup>Ibid.

<sup>37</sup>Ibid. The OGE official noted that the severance pay ruling was based on a legal decision.

However, if an individual's retirement plan is not in the control of the nominee and were to consist of defense-related company stock or holdings (i.e., not be diversified), the OGE would consider this a conflict. In addition, the OGE requires that nominees sever all ties to their previous employers prior to accepting an appointment. The OGE does offer an exception, however: If one is a tenured professor, one may take a leave of absence upon filling a PAS or noncareer SES position and recuse oneself from any decision relating to the university. Nevertheless, even if the OGE does not consider a nominee's assets or affiliations to be problematic, some individuals may lose out on benefits owing to their absence from the system once they enter the PAS or noncareer SES position.

On the other side of the retirement benefits issue, individuals considering a PAS or noncareer SES position must gauge whether they will be employed by the federal government long enough to qualify for any federal government employee retirement benefits. In order to be eligible for a full annuity, an individual must have 20 to 30 years of federal service (depending on the age of the employee and depending on which retirement system the individual belongs to).<sup>38</sup> Eligibility for a reduced deferred annuity begins after five years of service under the Civil Service Retirement System (CSRS), which covers employees who entered service before 1984, and after ten years of service under the Federal Employees' Retirement System (FERS), which covers employees hired after 1984.

In the FERS system, in addition to the annuity component, the optional Thrift Savings Plan (TSP) allows employees to contribute up to 10 percent of their salary to a tax-deferred plan. The federal government contributes 1 percent of pay to the plan automatically and up to 4 percent to the plan if the employee contributes to the TSP. Employees have full vesting of their contribution to the plan and the plan's earnings, but presidential appointees and noncareer SESs are vested for the federal government's contribution only after two years of service.<sup>39</sup>

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<sup>38</sup>There are two civil service retirement systems in effect: the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) (for all federal employees hired after January 1, 1984, and for employees hired prior to that time who decided to transfer to the new FERS system). The CSRS system did not cover individuals serving in excluded positions—PAS and noncareer SES—except when individuals had been in the CSRS system and transferred to the excluded position without a break in service. To be eligible for full retirement (an unreduced annuity) under the CSRS system, one has to be age 55 with 30 years of service; age 60 with 20 years of service; or age 62 with five years of service. Under FERS, one can retire at age 62 with five years of service; at age 60 with 20 years of service; or, depending on when one is born, at age 55 to 57 with 30 years of service. The information regarding retirement benefits is from the *1999 Federal Personnel Guide*.

<sup>39</sup>Career employees are vested for the federal government's contribution after three years of federal service.

In Section 2, we presented data showing that most individuals serve in PAS positions for only 11 to 20 months. Therefore, those who have no previous federal service will not qualify for an annuity unless they continue in federal service after they leave their initial PAS position. Moreover, according to a 1994 Government Accounting Office study (U.S. GAO, 1994), many individuals serving in political appointment positions, especially in the OSD and in the Navy, tend not to serve long enough even to qualify for vesting in the TSP for the government contribution.

Individuals who have served in the military face additional retirement benefit issues. Credits in the military retirement system can be transferred to the CSRS and the FERS service. However, an individual credit cannot be counted twice; it may apply either to the civil service retirement plan or to that of the military, but not both.

Military retirees have had additional complications when receiving both military retirement pay and civilian federal service pay. Military retirees are permitted to receive military retirement pay after entering civilian federal service. However, in the past there was a double-dipping prohibition. Pursuant to the Dual Compensation Act, if a retired military official who was receiving retirement pay accepted a civilian federal position (including a PAS or noncareer SES position), his or her military retirement pay would be reduced while serving in this position. This provision may have caused some interested retired military officers to think twice about accepting a PAS or noncareer SES position. However, the 2000 Defense Appropriations bill repealed the double-dipping provision; the Dual Compensation Act provisions ended on October 1, 1999.<sup>40</sup> Perhaps this change will encourage more retired military personnel to accept a political appointment.

### ***Deterrent: Prohibition Against Outside Employment***

Pursuant to 5 C.F.R. §2635.804, "A presidential appointee to a full-time noncareer position shall not receive any outside earned income for outside employment, or for any other outside activity, performed during that presidential appointment." The prohibition covers all PAS appointees. Noncareer SES appointees are prevented from earning outside income of more than 15 percent of the annual rate of basic pay for EL-II.<sup>41</sup> Moreover, noncareer SES appointees cannot

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<sup>40</sup>National Defense Authorization Act for Fiscal Year 2000 (1999).

<sup>41</sup>In 1999, this limit on outside earned income was \$20,505, since individuals at the EL-II level earned \$136,700.

“receive compensation for: (i) practicing a profession which involves a fiduciary relationship; or (ii) affiliating with or being employed to perform professional duties by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship” (5 C.F.R. §2636.305). In addition, the noncareer SES “shall not receive compensation for serving as an officer or member of the board of any association, corporation or other entity” (5 C.F.R. §2636.306).<sup>42</sup> Neither the PAS nor the noncareer SES can “permit his name to be used by any firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship.” Finally, the noncareer SES is permitted to receive compensation for teaching only if he or she obtains prior permission from the DAEO (5 C.F.R. §2636.307). These additional restrictions on PAS and noncareer SES individuals may also serve as a deterrent to those concerned about the economic impact of accepting an appointment.

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<sup>42</sup>An appointee is permitted to serve as long as there is no compensation given.

## 4. Conclusion

For this report, we collected and analyzed existing DoD data on presidential appointees with Senate confirmation and on political appointees who do not require Senate confirmation. We reviewed the literature on the appointees and the appointment process. From these sources we identified a number of trends.

### Numbers and Layers of PAS Positions Increased over Time

The number of PAS positions in the DoD (including the three military departments) increased from 12 in 1947 (of which 11 were military department PAS positions) to a high of 47 in 1993. As of October 17, 1998, Title 10 authorizes 44 PAS positions in the DoD (22 for the OSD and 22 for the three military departments combined).<sup>1</sup>

Position titles reflect the onset and explosion of PAS layers in the OSD that Light noted in his 1995 assessment of post–New Deal government growth (Light, 1995). In contrast, these layers are absent from the military departments. The most noticeable growth in OSD PAS positions has been in the long-standing Assistant Secretary of Defense positions and since 1977, in two new administrative layers—Under Secretary and Deputy Under Secretary. By 1994, these new layers contained four Under Secretary of Defense positions and two Deputy Under Secretary of Defense positions. Consequently, the Secretaries of Defense during the Clinton administration have had more and thicker layers of advisers than did their predecessors.

Although the intention behind adding layers of political appointees to the OSD may have been to allow the Secretary of Defense to better manage and control the DoD, several authors argue that in fact the opposite occurs. Light maintains that a diffusion of accountability ensues with more layers of oversight (Light, 1995). Pfiffner (1987) argues that the balance should be shifted back toward fewer presidential appointees, who are best at setting goals, and more civil servants, who are best at designing programs to implement the goals.

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<sup>1</sup>P.L. 105-261 (October 17, 1998) reduced the number of authorized Assistant Secretary of Defense positions from ten to nine, thereby reducing the number of authorized PAS positions in the DoD from 45 to 44. Official OSD title reports reflected 45 PAS positions as of May 1999.

## **Functional Areas Authorized PAS Positions Within OSD Waxed and Waned**

Assignment of PAS positions within the OSD has changed to reflect shifting priorities and changes in the number of positions authorized. Except for the research and development function, which had two assistant secretaries in 1953, only the international security function has had more than one assistant secretary devoted to it. Many functions have shared an assistant secretary with another function; examples are the Assistant Secretary of Defense (Legislative and Public Affairs) or the Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations, and Environment). As the number of assistant secretary positions in the OSD grew over time, assistant secretaries were more often assigned to single rather than combined functions.

Today, the *United States Code* specifies 12 functions for 14 of the 22 OSD PAS positions: acquisition and technology, research and development, policy, comptroller, personnel and readiness, operational test and evaluation, general counsel, inspector general, nuclear and chemical and biological defense, reserve affairs, legislative affairs, and special operations and low intensity conflict. The Secretary of Defense and the Deputy Secretary of Defense are not associated with any functional area. The secretary has authority to assign the remaining six assistant secretaries to functions of his or her own choosing.

## **Tenure of Senior PAS Officials in the DoD Generally Short**

Secretaries of Defense serve for 30 months on average; most serve 11 to 20 months. On the extremes, Secretary McNamara held the position the longest (85 months) and Secretary Richardson served the shortest length of time (four months). Deputy Secretaries of Defense serve 23 months on average, and like the secretary, most serve 11 to 20 months. Military department secretaries also typically serve 11 to 20 months. These tenures are typical for the federal senior political leadership.

## **Fill/Vacancy Rates of PAS Positions Increased**

Vacancy at the top level of the DoD is quite rare. Since Forrestal was confirmed as the first Secretary of Defense in 1947, the position has been vacant only three times for a total of 104 days. However, the amount of time other positions are vacant has increased over time. During the Truman and two Eisenhower administrations, the DoD PAS positions that existed at that time were vacant 2



percent, 4 percent, and 6 percent of the time, respectively. In contrast, during the Clinton administration, PAS positions were vacant 20 percent of the time. As noted earlier, “vacant” means the PAS position is not occupied by a person appointed by the President with the advice and consent of the Senate. The position may be unoccupied or temporarily filled by an “acting official,” which is considered vacant for this discussion. These “acting officials” tend not to be formally recorded, so we could not determine how many of the vacant positions were filled by acting officials.

## **The Appointment Process Contains Deterrents to Service**

Attracting people with desired experience and attributes to presidential appointments that require Senate confirmation is not as straightforward as it might appear. Individuals who are selected to serve in PAS positions overcome numerous obstacles imposed by the appointment and confirmation process. Process delays keep increasing administration by administration. PAS candidates wait an average of 8.5 months to be appointed today, while during the Kennedy administration the typical wait was only 2.4 months (Mackenzie, 1996). Consequently, months pass from the time the candidate’s name goes to the White House until he or she is confirmed as the political appointee. This delay is especially long considering the short tenure of service of most PAS appointees. Data are not available on the number who decline consideration for nomination or drop out during the nomination and confirmation process.

All candidates for PAS and noncareer SES positions complete extensive paperwork. Each waits weeks to months for the FBI and IRS to complete detailed investigations. Each candidate submits to conflict-of-interest rules. PAS candidates must be amenable to divesting any holdings in the defense industry, dictated by the Senate Armed Services Committee’s strict conflict-of-interest standards.

When the President announces a PAS candidate’s nomination to the Senate, the nominee completes additional Senate forms and awaits the results of Senate investigations. Although the Senate confirms most nominations without controversy, those that do cause conflict between the White House and the Senate often receive considerable press attention. Once appointed, appointees may face more occupational obstacles, such as low salaries, job stress, and long work hours without official vacation time. The appointee may lose retirement benefits because of separation from his or her previous employer, and because he or she may not stay in the appointed position long enough to vest in the

retirement system. Finally, once the appointee leaves public office, he or she is subject to myriad postemployment restrictions.

In light of all these factors, concern has arisen that individuals may be deterred from entering government service. On the other hand, Michaels (1995) noted that in the survey of Bush PAS appointees, most of them voiced “great satisfaction” with their PAS position. According to Michaels, PAS appointees spoke of many positive aspects: the chance to work for the public good—to “make a difference” and serve the country; the opportunity to work with interesting coworkers, especially career employees; the intellectually interesting and exciting work; and the chance to carry out presidential policies as well as their own policy agendas. If the obstacles are removed, or at least mitigated, the benefits will gain the upper hand. Then the DoD—and the rest of the federal government—will be better able to attract individuals to political appointment positions.

## A. An Overview of the Federal Workforce System<sup>1</sup>

The U.S. Civil Service dates back to the Civil Service Act of 1883. This legislation, known as the Pendleton Act, created the civil service to “remove partisan political influences from the selection and retention of civil servants.”

Today, more than 80 percent of all federal workers are in the civil service, with more than half of them working in the DoD.<sup>2</sup> These civil servants are covered by Title 5 of the *United States Code* (U.S.C. §2301[b]), which includes the following protections and principles:

- Recruitment representative of all society; selection and advancement “determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition.”
- “Fair and equitable treatment . . . without regard to politics, race, color, religion, national origin, sex, marital status, age, or disability; and also with proper regard for individual privacy and constitutional rights”; and protection against arbitrary action, personal favoritism, or coercion for partisan political purposes.”
- “Equal pay for work of equal value,” considering national and local private pay rates, and considering incentives and performance rewards.
- “Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.” Employees should also receive education and training when that would “result in better organizational and individual performance.”

New hires enter the civil service on career-conditional employee status. After serving for three continuous years and receiving successful performance appraisals, their status automatically changes to career-appointment employee status. Career-appointment employees have permanent reinstatement eligibility, which means that if they leave federal service they can be considered for reemployment without having to take another civil service examination.

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<sup>1</sup>Information in this appendix is summarized from the *1999 Federal Personnel Guide* (FPG). Unattributed quotations in this appendix are from the 1999 FPG.

<sup>2</sup>Office of the Deputy Assistant Secretary for Civilian Personnel Policy.

Nineteen percent of the total federal workforce are in the excepted service—that is, they do not receive civil service protection. Consequently, they do not have permanent reinstatement eligibility. In addition, if they want to move to a job within the civil service, they need to be examined for the position. Excepted-service employees also do not have the civil service’s guarantee that adequate performance will ensure continued employment.

The excepted service includes both specific agencies, such as the Defense Intelligence Agency and the Nuclear Regulatory Commission, and certain positions within agencies covered by the civil service, such as the OSD, or the Department of the Army. Employees in the excepted service include:

- those in Schedule A, defined as “positions which are not of a confidential or policy-determining character . . . for which it is not practicable to examine”— i.e., the position is temporary; a critical hiring need requires a temporary fill; or the position requires professional accreditation, such as attorneys and service academy faculty members;
- those in the Schedule B category, defined as “positions for which it is not practicable to hold open competitive examinations and which are not of a confidential or policy determining nature,” such as Treasury Department national bank examiners; and
- those in Schedule C positions, “which are policy determining or which involve a close personal relationship between incumbents and the head of the agency and key officials.”

Since Schedule A and B positions are not considered to be political appointments, they are not included in this report.

The excepted service also includes presidential appointees who require Senate confirmation (PASs) and noncareer SES employees (described below). In our definition of political appointees we include positions that are “policy determining”: the PAS appointees, the Schedule C appointees, and the noncareer SES appointees.<sup>3</sup> Schedule C positions are not discussed in this study, since they are, for the most part, ranked below PAS- and SES-level positions.

One-half of one percent of the federal civilian workforce is in the SES. In 1998 the career and noncareer SES employees in the DoD comprised 0.16 percent of the

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<sup>3</sup>Data are from the DMDC. In 1998, 0.19 percent of the individuals in the total civilian DoD workforce held one of these political positions.

DoD civilian workforce.<sup>4</sup> These SES employees serve as upper-level managers and advisers to the political appointees.

The purpose of creating the SES workforce was to serve “twin objectives of change and continuity: on the one hand, helping the top officials of the Administration steer their agencies in the direction set by the President; on the other hand, carrying forward the institutional memory of government and maintaining high demands of public service.” Within the DoD, the SES employees’ continuity is notable, since their military counterparts rotate positions frequently.

The SES encompasses both career SES and noncareer SES employees.<sup>5</sup> The noncareer SES appointees are, for the most part, “those who are responsible for formulating, advocating, and directing administration policies.” Some noncareer SES appointees may serve in technical positions, but like other political appointees they have no tenure and serve “at the pleasure of the department head.” SES positions are categorized into two broad types: the *career reserved* (which can only be filled by career SES appointees) and the *general* (which can be filled by either career or noncareer SES appointees). A federal statute designates a minimum of 3571 positions as career reserved in the federal government. Another restriction mandates that only 10 percent of all SES positions in the executive branch be filled by noncareer SES.<sup>6</sup> At the end of FY 1998, there were 70 DoD noncareer and 1101 career SES employees.<sup>7</sup>

Individuals serving in PAS positions serve at the pleasure of the President. PAS positions, by definition, are classified as political appointments. Title 10 U.S.C. states that individuals are “appointed from civilian life by the president, by and with the advice and consent of the Senate.”<sup>8</sup> When members of the career SES are appointed to PAS positions, they retain SES benefits and eligibility to return to a career-reserved SES position after the completion of the PAS appointment, since the FPG specifically states: “Career members [of the SES] may accept a

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<sup>4</sup>Data are from the DMDC.

<sup>5</sup>There are four types of SES appointments: career-appointment (which is competitive); non-career-appointment (the political appointee category serving below the assistant secretary level); limited emergency (a one-time appointment of up to 18 months to meet an “urgent program need”); and limited term appointment (a nonrenewable appointment for up to three years to a temporary position such as a special project or study). Recent examples of SES term appointments within the DoD include the individuals appointed to lead the Defense Reform Initiative and TRICARE, the new military health care system. An individual newly appointed to a career SES position must serve a one-year probationary period. After successfully serving the probation, a career SES may leave the Senior Executive Service with eligibility to return to a SES position (reserved or general).

<sup>6</sup>In addition, in most agencies the number of noncareer SES appointees cannot surpass 25 percent of the agency’s total SES allotment. See 1999 FPG.

<sup>7</sup>DMDC data.

<sup>8</sup>Title 10 *United States Code Service* §132 (and other subsections).

presidential appointment to a position outside the SES [including a PAS position] and retain SES pay and benefits. They may also be entitled to return to an SES position" (1999 FPG).

## B. DoD PAS Position Data Sources

As described elsewhere in this report, PAS positions exist in the OSD, the Department of the Army, the Department of the Navy, and the Department of the Air Force.

As part of this study, we sought to compile a full data set from July 1947 to May 1999. We recorded the dates that all OSD and military department PAS positions were established, retitled, and abolished plus the dates (by month) that all PAS positions were filled and vacant. This appendix identifies the data sources that met our requirements and were available to us.

We conducted a thorough search for PAS position and appointee data throughout the OSD, the military departments, the White House Personnel Office, the DMDC, and the Office of Personnel Management. The White House Personnel Office retains no PAS position or appointee data from previous administrations. The readily available data from DMDC and the Office of Personnel Management was aggregated in such a way that it was not suitable for answering the primary questions of interest.

The data sources we used identify various statutes, defense directives, memoranda, and sometimes just dates that established positions by title. Whenever available, the date listed for establishing, retitling, or abolishing positions is the statute date because “dates of Department of Defense directives confirming establishment of positions and prescribing functions usually follow appointments by months and sometimes years” (Office of the Secretary of Defense, 1995). For example, the Under Secretary of Defense (Policy) position was “officially established by Defense Directive 5111.1, October 27, 1978, pursuant to PL 95-140, October 21, 1977[,]” and was first filled August 14, 1978. Therefore, we were not always able to reliably measure the time between the date the position was established and the date the position was filled or retitled. However, the confirmation and resignation dates of appointees are reliable.

### Sources for OSD PAS Position and Appointee Data

The primary data source for empirical position data was *Department of Defense Key Officials, 1947–1995* (1995). It summarizes changes to OSD PAS positions resulting from changes to statutes and identifies the dates when most—not all—OSD PAS positions were established and abolished. It also lists by position title the names, confirmation date, and resignation date of every individual who

served in a PAS position in the OSD since the Department of Defense was established in 1947 until 1995. It also lists by name, confirmation date, and resignation date every individual who served as Secretary of the Army, Secretary of the Navy, and Secretary of the Air Force from 1947 until 1995.

A second primary data source for more recent empirical PAS position data was the attachment to a September 30, 1998, memorandum from D. O. Cook, Director of Administration and Management, OSD, to the Honorable John Glenn, Committee on Governmental Affairs, U.S. Senate. The memorandum states, "This is to complete the Department of Defense's (DoD) response to [the eighth and final question of] your request for views on S. 2176, 104th Congress, a bill entitled the 'Federal Vacancies Reform Act of 1998.'" The attachment, titled "DoD Response to Question 8 from Ranking Member, Senate Governmental Affairs Committee on Federal Vacancies Reform Act of 1998, S. 2176," lists the dates when each PAS position in the DoD (OSD and military departments) was vacant, from January 20, 1993 (the beginning of the Clinton administration), to September 30, 1998. It lists the names of officials who temporarily filled the vacant PAS position on an "acting" basis as well as the dates served. It does not list individual PAS appointees by name, confirmation date, or resignation date. It records changes to position titles and PAS position status during that time.

The most recent PAS position data (from September 30, 1998, to May 31, 1999) came from routine monthly PAS and noncareer title reports from the Staffing, Classification, and Executive Resources Division, Personnel and Security Directorate, Washington Headquarters Services, the OSD.

The Staffing, Classification, and Executive Resources Division, Personnel and Security Directorate, Washington Headquarters Services, in the OSD retains stacks of paper title reports for OSD PAS position titles, appointee names, confirmation dates, and resignation dates, plus other personnel information, going back to the 1970s or 1980s. This office retains no data on dates that PAS positions were established or abolished; nor does it track PAS positions for the defense agencies.

Title 10 of the U.S.C. provided statutory changes to authorized OSD PAS positions; numbers, titles, and dates established and abolished.

## **Sources for Military Department PAS Position and Appointee Data**

*Department of Defense Key Officials, 1947–1995* (1995), lists by name, confirmation date, and resignation date all individuals who served as Secretary of the Army,



Secretary of the Navy, and Secretary of the Air Force from 1947 until 1995; it contains no information on other military department PAS positions. The military department personnel offices, public affairs offices, and historians retain no easily researchable data on other military department PAS positions in past administrations.

No data were available on the under secretaries, assistant secretaries, and general counsels that served in the Departments of the Army and the Air Force between 1947 and January 20, 1993. However, the Office of the Under Secretary of the Navy provided an untitled, undated internal document that records all Department of the Navy PAS position titles (except the General Counsel), appointee names, and confirmation and resignation dates from 1861 to September 1996. It does not record dates that PAS positions were established or abolished.

Although the Staffing, Classification, and Executive Resources Division, Personnel and Security Directorate, Washington Headquarters Services, in the OSD, does not track PAS positions for the military departments, it provided recent reports that record military department PAS position titles, appointee names, and dates appointed and resigned. These data covered the period from September 30, 1998, to May 31, 1999.

Finally, the attachment to the September 30, 1998, memorandum described above lists the dates each military department PAS position was vacant from January 20, 1993, to September 30, 1998. It lists the names of officials who temporarily filled the vacant PAS position on an "acting" basis as well as the dates served. It does not list individual PAS appointees by name, confirmation date, or resignation date. It records changes to position titles and PAS position status during that time.

Title 10 of the U.S.C. was the primary source for military department PAS position titles and the dates positions were established and abolished by statute.

## **Determining When Positions Are Filled or Vacant**

Using these data, we determined the number of months the positions were filled with individuals appointed by the President and confirmed by the Senate and the number of months the positions were vacant, which includes those temporarily staffed with an acting official. To do this, we adopted the following rules:

- A position was counted as filled for the month if it was filled by an individual who was appointed by the President and confirmed by the Senate more days in a month than vacant or filled with a non-PAS individual.<sup>1</sup>
- When the original data source specified only the month and year and not the day positions were filled or vacant, we counted the position as filled or vacant for the whole month.
- If a position was filled for exactly half a month (i.e., filled June 1–15 and vacant June 16–30), we counted it as filled for the month.
- If a position was vacant<sup>2</sup> or filled with a non-PAS more days in a month than it was filled, we counted it as vacant for the month.
- When an appointee serving in a confirmed PAS position temporarily assumed the duties of another PAS position in an acting capacity, we counted both positions as vacant for the duration of the temporary assignment.<sup>3</sup>

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<sup>1</sup>“Non-PAS” may include an official serving in a position in an “acting” capacity or as a career SES.

<sup>2</sup>“Vacancy” does not necessarily mean an unoccupied position. Offices are often without permanent appointees for months and sometimes years. During these times, the positions are often filled with an official in an “acting” capacity. The data reflecting these periods are unreliable because “acting” officials have been de facto rather than formally designated.

<sup>3</sup>For example, William H. Taft IV was appointed to the position of Deputy Secretary of Defense from February 3, 1984, to April 22, 1989. During the last months of his tenure as Deputy Secretary of Defense, Taft served as “acting” Secretary of Defense from Secretary Carlucci’s departure on January 20, 1989, until the swearing in of Secretary of Defense Richard B. Cheney on March 21, 1989. In this example, both the Deputy Secretary of Defense position and the Secretary of Defense position are counted as vacant from January 20, 1989, to March 21, 1989.

## **C. PAS Position Titles in OSD from 1947 to 1999 by Function**

In the early 1950s, the Second Hoover Commission, headed by former President Herbert C. Hoover, recommended that the Secretary of Defense emphasize the management areas of logistics, research and development, personnel, and finance and regroup certain functions under assistant secretaries to strengthen the coordination of these four principal management areas (Second Hoover Commission, 1955). To accommodate changing priorities during the past 50 years and to manage the resulting change in number of PAS positions, the OSD sometimes grouped and regrouped two or three functions into one assistant secretary position. In a similar manner, the OSD sometimes separated formerly combined functions out of assistant secretary positions when Congress increased the number of authorized assistant secretary positions. Also, from time to time, as assistant secretary authorizations shifted, some functions lost PAS status and the former PAS position reverted to a non-PAS position. Generally, when a position lost PAS status, it was reclassified as a general SES position that could be filled by either a noncareer SES appointee or a career SES appointee.

Title 10 states that the OSD is authorized the following PAS positions:

- Secretary of Defense
- Deputy Secretary of Defense
- Under Secretary of Defense for Acquisition and Technology
- Under Secretary of Defense for Policy
- Under Secretary of Defense (Comptroller)
- Under Secretary of Defense for Personnel and Readiness
- Director of Defense Research and Engineering
- Assistant Secretaries of Defense (nine)
- Director of Operational Test and Evaluation
- General Counsel of the Department of Defense
- Inspector General of the Department of Defense

Title 10 also states that “such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.” The following PAS positions appear to fall under this category:

- Deputy Under Secretary of Defense for Acquisition and Technology
- Deputy Under Secretary of Defense for Policy
- Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs

Assistant Secretary of Defense position titles have always been tagged with an additional functional identifier, such as Assistant Secretary of Defense (Public Affairs). Title 10 currently designates functional identifiers for three statutory positions out of the nine authorized Assistant Secretary of Defense positions:

- Reserve Affairs
- Legislative Affairs
- Special Operations/Low Intensity Conflict

The following six current Assistant Secretary of Defense position functional identifiers, titled by the Secretary of Defense, are not specified in Title 10:

- Force Management Policy
- Health Affairs
- International Security Affairs
- Command, Control, Communications, and Intelligence
- Strategy and Threat Reduction (International Security Function)
- Public Affairs

The remainder of this appendix lists all OSD PAS position titles by functional area from 1947 to May 1999, plus non-PAS position titles that preceded or succeeded PAS position status. Three of the earliest PAS positions—the Chairman, Research and Development Board; the Chairman, Military Liaison Committee; and the Chairman, Munitions Board—are excluded because they existed outside the OSD in early DoD staff agencies. Current (as of May 31, 1999) PAS position titles appear in **boldface** below. Non-PAS position titles appear in *italics*. The dates the position titles existed appear alongside. In the following tables, we recorded the exact month and/or date and year that a position was established by statute, if known; otherwise by DoD Directive, or other data

source. A brief history of the PAS position changes in each functional area is provided if there have been any changes.

This appendix does not include PAS position fill or vacancy data.

The most senior OSD PAS positions are not associated with functional areas.

Position	Tenure
<b>Secretary of Defense</b>	<b>7/26/1947–present<sup>a</sup></b>
Under Secretary of Defense (original)	4/2/1949–8/10/1949
<b>Deputy Secretary of Defense 1</b>	<b>8/10/1949–present</b>
Deputy Secretary of Defense 2	10/27/1972–10/21/1977

<sup>a</sup>May 31, 1999.

The National Security Act of 1947 established the first Secretary of Defense position to head up the new department it created for national defense, the National Military Establishment, which was renamed the Department of Defense two years later with the passage of the 1949 Amendments to the National Security Act.

The Under Secretary of Defense position was originally established by Public Law in 1949; the 1949 Amendments changed the position title to Deputy Secretary of Defense. A second Deputy Secretary of Defense position was established by Public Law in 1972. The second Deputy Secretary of Defense position was abolished by Public Law in 1977, at which time it was reestablished as Under Secretary of Defense (Policy).

## Acquisition and Technology (Originally Research and Development)

Position	Tenure
Assistant Secretary of Defense (Research and Development)	1953–1957
Assistant Secretary of Defense (Applications Engineering)	1953–1957
Assistant Secretary of Defense (Research and Engineering)	3/1957–2/10/1959
Director of Defense Research and Engineering	2/10/1959–10/21/1977
Under Secretary of Defense (Research and Engineering)	10/21/1977–7/1/1986
<b>Director of Defense Research and Engineering</b>	<b>7/1/1986–present<sup>a</sup></b>
Under Secretary of Defense (Acquisition)	MRAA 1986– 11/10/1993 <sup>b</sup>
<b>Under Secretary of Defense (Acquisition and Technology)</b>	<b>11/10/1993–present</b>
Assistant Secretary of Defense (Production and Logistics)	4/1987–5/19/1993
Assistant Secretary of Defense (Economic Security)	5/19/1993–12/25/1995
Principal Deputy Under Secretary of Defense (Acquisition)	MRAA 1986– 11/10/1993 <sup>b</sup>
<b>Principal Deputy Under Secretary of Defense (Acquisition and Technology)</b>	<b>11/10/1993–present<sup>c</sup></b>

<sup>a</sup>May 31, 1999.

<sup>b</sup>Military Retirement Authorization Act.

<sup>c</sup>National Defense Authorization Act of 1987.

The former research and development function predates the OSD. The National Security Act of 1947 established the Research and Development Board<sup>1</sup> as a staff agency and established its chairman as a PAS position. The board dissolved according to the provisions of Reorganization Plan No. 6 of 1953 and transferred its functions to two new assistant secretary positions, the Assistant Secretary of Defense (Research and Development) and the Assistant Secretary of Defense (Applications Engineering). In 1957, these two positions were combined into one, the Assistant Secretary of Defense (Research and Engineering). In recognition of the increasing importance of research and development activities, the DoD Reorganization Act of 1958 upgraded the former second research and development position to Director of Defense Research and Engineering and explicitly stated that this position title ranked above the assistant secretaries of defense. Public law subsequently upgraded the Director, Defense Research and Engineering to Under Secretary of Defense (Research and Engineering) in 1977, where it remained until the Military Retirement Reform Act of 1986 reestablished the position of Director of Defense Research and Engineering under the Under Secretary (Acquisition and Technology).

The current Under Secretary of Defense (Acquisition and Technology) derived from the Under Secretary of Defense (Research and Engineering). Established as the Under Secretary of Defense (Acquisition) in 1986, this position's title was changed by a 1993 Defense Directive to Under Secretary of Defense (Acquisition and Technology). The under secretary serves as the principal assistant to the Secretary of Defense for research and development, production, procurement, logistics, and military construction. This under secretary is the only PAS position required by Title 10 of the *United States Code* to "be appointed from among persons who have an extensive management background in the private sector" (1998).

The Assistant Secretary of Defense (Production and Logistics) derived from PAS positions in the logistics function. See the supply, logistics, and installations function section later in this appendix. The 1993 reorganization of the Office of

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<sup>1</sup>The Research and Development Board inherited the organizational structure of its predecessor nonstatutory organization, the Joint Research and Development Board, which was created in 1946. It filled the void left by the phasing out of the Office of Scientific Research and Development, which had coordinated military research and development during World War II.

the Under Secretary of Defense (Acquisition and Technology) retitled this position to Assistant Secretary of Defense (Economic Security).

The National Defense Authorization Act of 1987 established a new statutory PAS position, Principal Deputy Under Secretary of Defense (Acquisition and Technology), which gives the acquisition and technology function three PAS positions, all above the assistant secretary level (the third being the Director, Defense Research and Engineering). As a result, the acquisition and technology function has more of the highest executive-level PAS positions than any other function in the OSD.

## Manpower and Personnel

Position	Tenure
Assistant Secretary of Defense (Manpower and Personnel)	11/15/1950–9/2/1955
Assistant Secretary of Defense (Manpower, Personnel, and Reserve)	9/2/1955–1961
Assistant Secretary of Defense (Manpower)	1/31/1961–1/1/1968
Assistant Secretary of Defense (Manpower and Reserve Affairs)	1/1/1968–4/22/1977
Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)	4/22/1977–10/1/1983
Assistant Secretary of Defense (Manpower, Installations, and Logistics)	1/12/1984–7/5/1985
Assistant Secretary of Defense (Force Management and Personnel)	3/13/1985–3/17/1994
Assistant Secretary of Defense (Personnel and Readiness)	Unknown–3/17/1994
Assistant Secretary of Defense (Force Management)	7/7/1994–10/31/1994
<b>Assistant Secretary of Defense (Force Management Policy)</b>	<b>10/31/1994–present<sup>a</sup></b>
<b>Under Secretary of Defense (Personnel and Readiness)</b>	<b>11/10/1993–present</b>

<sup>a</sup>May 31, 1999.

The manpower and personnel function is distinguished in the data for having had ten different titles associated with one PAS position—more than any other function—owing, perhaps, to its recurrent pairing with other functions. An assistant secretary position was first assigned to the manpower and personnel functional area in 1950. Since then, one assistant secretary position was assigned to the function combined in various configurations with the installations function and, as mentioned earlier, with the reserve affairs function and the logistics

function. Since 1985, the titles associated with the assistant secretary position in the manpower and personnel function changed to reflect a new focus on force management and readiness, again with variations. Likewise, a second PAS position—Under Secretary (Personnel and Readiness)—was devoted to the function in 1993; it communicates the same focus.

## Reserve Affairs

Position	Tenure
<b>Assistant Secretary of Defense (Reserve Affairs)</b>	<b>10/1/1983–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

In 1983, the FY 1984 Defense Authorization Bill mandated a statutory assistant secretary position for the reserve affairs function which permanently separated the Reserve function from its long-standing pairing with the manpower function.

## Administration

Position	Tenure
Assistant Secretary of Defense (Administration and Public Affairs)	9/12/1949–11/15/1950
Assistant Secretary of Defense (Administration)	7/1/1964–11/3/1971
<i>Deputy Assistant Secretary of Defense (Administration)</i>	11/3/1971–5/24/1988
<i>Director of Administration and Management</i>	5/24/1988–present <sup>a</sup>

<sup>a</sup>May 31, 1999.

One of the first three assistant secretaries was assigned to the administration functional area, which the data indicate initially was paired with the public affairs functional area. Rearden (1984) notes, however, that “public affairs” in the title was misleading because the Office of Public Information remained a separate organization with its own director, under the general supervision of the deputy secretary. In 1950, this assistant secretary position was transferred to the manpower and personnel functional area. The administration functional area regained PAS position status in 1964 with the establishment of the Assistant Secretary of Defense (Administration). The source of this assistant secretary position was likely the former Assistant Secretary of Defense (Civil Affairs) position that was abolished three months earlier. This second and last administration PAS position was abolished in 1971, and the functions were



transferred to a newly created non-PAS Deputy Assistant Secretary of Defense (Administration) and Assistant Secretary of Defense (Intelligence).

## Comptroller

Position	Tenure
Assistant Secretary of Defense (Comptroller)	1949–GWNA 1986 <sup>a</sup>
Department of Defense Comptroller	GWNA 1986–1993 <sup>a</sup>
<b>Under Secretary of Defense (Comptroller)</b>	<b>1993–present<sup>b</sup></b>

<sup>a</sup>Goldwater Nichols Act.

<sup>b</sup>May 31, 1999.

Although the Office of the Comptroller has had three different PAS position titles since the position was established by the Amendments of 1949, the titles reflect no change in functional responsibility, unlike most other position title changes. The title changes do, however, illustrate the growing movement toward higher executive-level position titles. The PAS position, initially titled Assistant Secretary of Defense (Comptroller)—the only functional title specifically established by statute at that time—later changed to the DoD Comptroller and eventually changed to Under Secretary of Defense (Comptroller).

## Nuclear, Chemical, and Biological

Position	Tenure
Assistant to the Secretary of Defense (Atomic Energy)	12/4/1989–2/10/1996
<b>Assistant to the Secretary of Defense (Nuclear, Chemical, and Biological)</b>	<b>2/10/1996–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

The individuals who served as Assistant to the Secretary of Defense (Atomic Energy) from 1953 to 1987 also served as Chairman of the Military Liaison Committee, which was established by the Atomic Energy Act of 1946. “The Amendments of 1949<sup>2</sup> provided that the president appoint the Chairman [of the Military Liaison Committee], with the advice and consent of the Senate,” making the chairman one of the first PAS positions in a Defense agency outside the

<sup>2</sup>The Amendments of 1949 were the first major change to the National Security Act of 1947.

immediate OSD. The Assistant to the Secretary of Defense (Atomic Energy) existed in a nonstatutory capacity from 1953 until 1987, when Title 12 of the *United States Code* elevated the position to PAS status without requiring confirmation. Apparently this was done because the one person serving in both positions had already been confirmed for the chairman position. Title 12 provided that “the person serving as Chairman of the Military Liaison Committee, Department of Defense, under section 27 of the Atomic Energy Act of 1946 . . . on October 16, 1986, may be appointed as the Assistant to the Secretary of Defense for Atomic Energy under section 141 [now 142] of Title 10, U.S. Code, without the advice and consent of the Senate.”

In 1989, the Defense Authorization Act of 1988–1989 established the Assistant to the Secretary of Defense (Atomic Energy) as a statutory position. “The 1996 Amendments substituted [a revised PAS position title,] Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs for Assistant to the Secretary of Defense for Atomic Energy” (10 *United States Code Annotated*, 1998). Although numerous other positions through the years were titled, Assistant to the Secretary of Defense with a functional identifier, only one other, the Assistant to the Secretary of Defense (Foreign Military Affairs and Military Assistance), was designated as a PAS position.

## Civil Defense

Position	Tenure
Assistant Secretary of Defense (Civil Defense)	8/31/1961–4/1/1964

Of all the functional areas assigned a PAS position since 1947, the assistant secretary position assigned to the civil defense function existed for the shortest period of time. The President delegated the civil defense function, formerly assigned to the Federal Civil Defense Administration, to the Secretary of Defense, where it resided for 18 years (1961–1979). A new Assistant Secretary of Defense (Civil Defense) was established for two and one-half years. The Office of Civil Defense was then transferred to the Secretary of the Army.<sup>3</sup>

<sup>3</sup>Civil defense responsibilities were then assigned to the Army Defense Civil Preparedness Agency. In 1979, the responsibility for civil defense was assumed by the director of the newly established Federal Emergency Management Agency.

## Command, Control, Communications, and Intelligence (C<sup>3</sup>I)

Position	Tenure
<i>Assistant to the Secretary of Defense (Telecommunications)</i>	5/1970–1/11/1972
Assistant Secretary of Defense (Intelligence)	11/3/1971–7/20/1976
Assistant Secretary of Defense (Telecommunications)	1/11/1972–1/17/1974
Assistant Secretary of Defense (Intelligence/Director of Defense Intelligence)	7/20/1976–3/11/1977
<i>Director, Telecommunications and Command and Control Systems</i>	1/17/1974–3/11/1977
Assistant Secretary of Defense (Communications, Command, Control, and Intelligence)	3/11/1977–3/1981
<i>Deputy Under Secretary of Defense (Communications, Command, Control, and Intelligence)</i>	3/1981–4/2/1985
<b>Assistant Secretary of Defense (Command, Control, Communications, and Intelligence)</b>	<b>9/24/1983–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

The history of the PAS positions assigned to the telecommunications and intelligence functions provide a good example of grouping functions under one assistant secretary position as well as functions losing and regaining PAS position status. One assistant secretary position—established with some functions from the former Assistant Secretary (Administration) position—was originally assigned to the intelligence function in 1971. A separate assistant secretary position was assigned to the telecommunications function in 1972. The telecommunications function lost PAS position status when the assistant secretary position was abolished in 1974, and the functions were transferred to a non-PAS position, Director of Telecommunications and Command and Control Systems. This position was abolished in 1977 with the establishment of the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence), which grouped the telecommunications and intelligence functions along with the additional command-and-control function. The assistant secretary position, abolished in 1981, reverted to a non-PAS position, Deputy Under Secretary of Defense (Communications, Command, Control, and Intelligence). Mandated by the FY 1984 Defense Authorization Act in 1983 and by the Goldwater-Nichols Act as one of three permanent assistant secretaries, the position was reestablished as the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) by Defense Directive 5137.1 in 1985. In October 1998, P.L. 105-261 repealed its statutory designation, and it is now a nonstatutory assistant secretary position.

## General Counsel

Position	Tenure
<b>General Counsel</b>	<b>08/24/1953–present<sup>a</sup></b>

<sup>a</sup>May 31 1999.

This was created in 1953 and has remained intact since that time.

## Health Affairs

Position	Tenure
<i>Chairman, Armed Forces Medical Policy</i>	1949–1953
<i>Assistant to the Secretary (Health Affairs)</i>	4/1/1953–8/2/1953
Assistant Secretary of Defense (Health and Medical)	8/3/1953–1/31/1961
Assistant Secretary of Defense (Health and Environment)	11/1969–1/22/1976
<b>Assistant Secretary of Defense (Health Affairs)</b>	<b>1/22/1976–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

An assistant secretary position was assigned to the health and medical function from 1953 to 1961, at which time the position was abolished and its functions were transferred to the new Assistant Secretary of Defense (Manpower). In 1969, P.L. 91-121 increased to eight the number of Assistant Secretaries of Defense and designated one as Assistant Secretary (Health Affairs). According to the data, the environment function was grouped with health affairs under this new PAS position. In 1976, the health affairs function was separated and assigned as a single function to an assistant secretary position.

## Inspector General

Position	Tenure
<b>Inspector General</b>	<b>9/8/1982–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

The FY 1983 Authorization Act authorized the Inspector General PAS position. It was created in 1982 and has remained intact since then.

## International Security Policy

Position	Tenure
Assistant to the Secretary of Defense (Foreign Military Affairs and Military Assistance)	1949–1953
<b>Assistant Secretary of Defense (International Security Affairs)</b>	1953–7/06/1993 6/15/1994–present <sup>a</sup>
<b>Under Secretary of Defense (Policy)</b>	10/21/1977–present <sup>a</sup>
<b>Principal Deputy Under Secretary of Defense (Policy)</b>	NDAA/1992–present <sup>b</sup>
Assistant Secretary of Defense (International Security Policy)	4/1981–6/30/1993, 6/13/1994–10/17/1998
Assistant Secretary of Defense (Nuclear Security and Counterproliferation)	6/30/1993–6/13/1994
Assistant Secretary of Defense (Strategy, Requirements, and Resources)	7/6/1993–6/13/1994
Assistant Secretary of Defense (Strategy and Requirements)	6/13/1994–2/1/1998
<b>Assistant Secretary of Defense (Strategy and Threat Reduction)</b>	2/1/1998–present
Assistant Secretary of Defense (Democracy and Peacekeeping)	6/1993–1/1994
Assistant Secretary of Defense (Policy and Plans)	7/6/1993–3/15/1994

<sup>a</sup>May 31, 1999.

<sup>b</sup>National Defense Authorization Act of 1992–1993.

The international security area shows the greatest growth over time in numbers of assistant secretary positions devoted to a function. One of the original three special assistants to the Secretary of Defense served as a coordinator for national security matters before the Secretary of Defense assigned the first PAS position to the function in 1949. This new PAS position was titled Assistant to the Secretary of Defense (Foreign Military Affairs and Military Assistance) (Rearden, 1984) or according to the OSD Historical Office (1995), Assistant to the Secretary of Defense (International Security Affairs). The position changed in 1953 to Assistant Secretary (International Security Affairs).

Unlike the earlier Under Secretary of Defense positions that all began as assistant secretary positions, the Under Secretary of Defense (Policy) was established outright by public law in 1977. The National Defense Authorization Act of 1992–1993 established a second statutory PAS position at the assistant secretary level for the function, the Principal Deputy Under Secretary of Defense (Policy).

A second assistant secretary position was assigned to the function in 1981, titled Assistant Secretary (International Security Policy). In 1993, three additional assistant secretary positions were devoted to the function, and the titles of the first two assistant secretaries also changed. A year later, in 1994, two of the

positions were eliminated, including one that was never filled, and the two new titles reverted back to the original titles. This left three assistant secretary positions devoted to the international security function, which is the greatest number of assistant secretary positions assigned to any function in the OSD. When Congress reduced the number of assistant secretary positions from ten to nine in October 1998, one of the three remaining international security positions, the Assistant Secretary (International Security Policy), was eliminated.

## Legislative Affairs

Position	Tenure
<i>Special Assistant (Legal, Legislative, and Public Affairs)</i>	1947–9/1949
Assistant Secretary of Defense (Legal and Legislative Affairs)	9/1949–1953
Assistant Secretary of Defense (Legislative and Public Affairs)	9/22/1953–1957
<i>Assistant to the Secretary of Defense (Legislative Affairs)</i>	1957–4/11/1973
	3/23/1977–1981
	8/1/1993–9/14/1994
<b>Assistant Secretary of Defense (Legislative Affairs)</b>	4/11/1973–3/23/1977
	1981–8/1/1993
	<b>9/14/1994–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

Legislative affairs was one of the three earliest functional areas established in OSD, originally assigned in combination with “legal matters” to one of the three special assistants to the Secretary of Defense. It remained paired with legal matters under one of the first three assistant secretaries until 1953, when it was paired with public affairs under one assistant secretary until the position was abolished in 1957. The functions were then separated and transferred to the Assistant Secretary (Public Affairs) and to a non-PAS position, Assistant to the Secretary of Defense (Legislative Affairs). A PAS position was redesignated Assistant Secretary of Defense (Legislative Affairs) in 1973 in lieu of the former Assistant Secretary of Defense (Systems Analysis). The function then lost PAS status again in 1977, when the position was retitled Assistant to the Secretary of Defense (Legislative Affairs). The function regained PAS status in 1981 when the position of Assistant Secretary (Legislative Affairs) was mandated by the Goldwater-Nichols Act.

## Operational Test and Evaluation

Position	Tenure
<b>Director, Operational Test and Evaluation</b>	<b>9/24/1983–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

This position was created in 1983 and has remained intact since that time.

## Program Analysis and Evaluation

Position	Tenure
Assistant Secretary of Defense (System Analysis)	9/10/1965–4/11/1973
<i>Director, Defense Program Analysis and Evaluation</i>	4/11/1973–2/11/1974
<i>Director for Planning and Evaluation</i>	5/18/1976–4/18/1977
Assistant Secretary of Defense (Program Analysis and Evaluation)	2/11/1974–5/18/1976 4/18/1977–5/19/1981 7/13/1988–6/25/1993
<i>Director of Program Analysis and Evaluation</i>	5/19/1981–7/13/1988 6/25/1993– <i>unknown</i>

The program analysis and evaluation function has had an on-again, off-again history of PAS position status. The first PAS position was assigned to the function in 1965, the Assistant Secretary (Systems Analysis). In 1973, the position title changed to a non-PAS Director, Defense Program Analysis and Evaluation. The function regained a PAS position in 1974, as the Assistant Secretary (Program Analysis and Evaluation). Two years later, in 1976, the position reverted to a non-PAS Director for Planning and Evaluation. The function regained an assistant secretary position from 1977 until 1981 before it was once again relegated to a non-PAS director. The function was last authorized an assistant secretary from 1988 until 1993, when the position was once again designated non-PAS Director of Program Analysis and Evaluation.

## Public Affairs

Position	Tenure
<i>Assistant to the Secretary of Defense (Director, Office of Public Information)</i>	7/14/1948–9/22/1953
Assistant Secretary of Defense (Legislative and Public Affairs)	9/22/1953–1957
<b>Assistant Secretary of Defense (Public Affairs)</b>	8/10/1957–1/22/1993 <b>3/29/1996–present<sup>a</sup></b>
<i>Assistant to the Secretary of Defense for Public Affairs</i>	1/22/1993–3/29/1996

<sup>a</sup>May 31, 1999.

As noted above, public affairs was originally grouped with legislative affairs under the Assistant Secretary of Defense (Legislative and Public Affairs) from 1953 until 1957, when the legislative affairs function was separated and lost PAS-position status. The Assistant Secretary of Defense (Public Affairs) was established in 1957 but lost PAS-position status when its title changed to

Assistant to the Secretary of Defense for Public Affairs in 1993. The function regained PAS-position status with the reestablishment of the Assistant Secretary of Defense (Public Affairs) title. This came about after the National Defense Authorization Act for Fiscal Year 1995 increased the number of assistant secretaries from ten to 11.

## Special Operations / Low Intensity Conflict

Position	Tenure
<b>Assistant Secretary of Defense (Special Operations/ Low Intensity Conflict)</b>	<b>1/4/1988–present<sup>a</sup></b>

<sup>a</sup>May 31, 1999.

The Assistant Secretary of Defense (Special Operations/Low Intensity Conflict) was mandated by the Goldwater-Nichols Act of 1986. Its title has not changed since it was established.

## Supply, Logistics, and Installations

Position	Tenure
<i>Director of Installations</i>	7/14/1952–8/3/1953
Assistant Secretary of Defense (Properties and Installations)	1953–1/30/1961
Assistant Secretary of Defense (Supply and Logistics)	1953–1/30/1961
Assistant Secretary of Defense (Installations and Logistics)	1/30/1961–4/22/1977
Assistant Secretary of Defense (Development and Support)	11/25/1984–11/19/1985
Assistant Secretary of Defense (Acquisition and Logistics)	11/19/1985–4/1987
Assistant Secretary of Defense (Production and Logistics)	4/1987–5/19/1993

The first Assistant Secretary of Defense (Properties and Installations) was established by the Reorganization Plan No. 6 of 1953 when it abolished the Director of Installations non-PAS position.

The logistics function stands out in the data because despite the Second Hoover Commission recommendation that the Secretary of Defense should organize to emphasize logistics, it was always grouped with a related function assigned to one assistant secretary position. Supply and logistics were first assigned to an assistant secretary position following the Reorganization Plan No. 6 of 1953 when the Munitions Board was abolished. According to Watson (1997), the assistant secretary for supply and logistics dealt with procurement, production, distribution, transportation, storage, cataloging, and mobilization planning and had the largest workforce in the OSD. In 1961, supply permanently disappeared from PAS-position titles, and logistics was then paired with the installations function under one assistant secretary position. This position was abolished in



1977; the acquisition responsibilities were transferred to the Director of Defense Research and Engineering, and the installations responsibilities were transferred to the Assistant Secretary (Manpower, Installations, and Logistics). The installation and logistics functions were subsequently transferred to the new Assistant Secretary (Acquisition and Logistics) in 1985. This position was disestablished in 1987 and replaced by an Assistant Secretary (Production and Logistics) position, a principal staff assistant for the Under Secretary of Defense (Acquisition and Technology). The installations function permanently lost PAS status at that time. With the 1993 reorganization of the Office of the Under Secretary of Defense (Acquisition and Technology), the Assistant Secretary (Production and Logistics) position title was replaced with an Assistant Secretary of Defense (Economic Security), while the logistics function remained in the Office of the Under Secretary of Defense (Acquisition and Technology).



## D. Chronology of PAS Positions Assigned to OSD Functional Areas

This appendix presents a chronology of PAS-position authorizations from 1947 through May 1999. This appendix lists the dates when functional areas first gained authorized PAS status but does not reflect the dates when functions lost PAS-position authorizations or when functions regained PAS-position status. The authorizations are grouped by four-year blocks that roughly match presidential terms.

### 1947 to 1948

- 1947—Legislative Affairs
- 1947—Supply, Logistics, and Installations
- 1948—Public Affairs

### 1949 to 1952

- 1949—Atomic Energy, later Nuclear, Chemical, and Biological
- 1949—Comptroller
- 1949—Health Affairs
- 1949—International Security Policy
- 1949—Administration

### 1953 to 1956

- 1953—General Counsel
- 1953—Research and Development
- 1955—Manpower

### 1957 to 1960

- 1961—Civil Defense (function abolished in 1964)

### 1961 to 1964

- 1965—Systems Analysis, later variations of Program Analysis and Evaluation

### 1965 to 1968

- None

**1969 to 1972**

1970—Command, Control, Communications, and Intelligence  
(C<sup>3</sup>I)

**1973 to 1976**

None

**1977 to 1980**

None

**1981 to 1984**

1982—Inspector General

1984—Operational Test and Evaluation

**1985 to 1988**

1986—Acquisition and Technology, originally Research and  
Development

1988—Special Operations/Low Intensity Conflict

**1989 to 1992**

None

**1993 to 1996**

None

**1997 to May 1999**

None

## E. Authorized OSD PAS Positions by Function (May 31, 1999)<sup>1</sup>

Italics highlight nonstatutory assistant secretary positions—i.e., those that the Secretary of Defense is authorized to allocate as he chooses. All other positions are statutory, their titles established by the Congress in Title 10, *United States Code*.

### Secretary of Defense

### Deputy Secretary of Defense

#### Acquisition and Technology

Under Secretary of Defense (Acquisition and Technology)  
Principal Deputy Under Secretary of Defense (Acquisition and Technology)  
Director of Defense Research and Engineering

#### Personnel

Under Secretary of Defense (Personnel and Readiness)  
*Assistant Secretary of Defense (Force Management Policy)*

#### Health Affairs

*Assistant Secretary of Defense (Health Affairs)*

#### Reserve Affairs

Assistant Secretary of Defense (Reserve Affairs)

#### Comptroller

Under Secretary of Defense (Comptroller)

#### Nuclear, Chemical, Biological

Assistant to the Secretary of Defense (Nuclear, Chemical, and Biological)

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<sup>1</sup>P.L. 105-261 (October 17, 1998) reduced the number of authorized Assistant Secretary of Defense positions from ten to nine, thereby reducing the number of authorized PAS positions in the OSD from 23 to 22. In response, the DoD eliminated the Assistant Secretary (International Security Policy) position. This appendix reflects the changes legislated by P.L. 105-261. However, official OSD title reports lag behind the legislative change and as of May 1999 still reflect 23 PAS positions.

**Command, Control, Communications, and Intelligence**

*Assistant Secretary of Defense (Command, Control, Communications, and Intelligence)*

**General Counsel**

General Counsel

**Inspector General**

Inspector General

**International Security Policy**

Under Secretary of Defense (Policy)

Principal Deputy Under Secretary of Defense (Policy)

*Assistant Secretary of Defense (International Security Affairs)*

*Assistant Secretary of Defense (Strategy and Threat Reduction)*

**Legislative Affairs**

Assistant Secretary of Defense (Legislative Affairs)

**Operational Test and Evaluation**

Director, Operational Test and Evaluation

**Public Affairs**

*Assistant Secretary of Defense (Public Affairs)*

**Special Operations/Low Intensity Conflict**

Assistant Secretary of Defense (Special Operations/Low Intensity Conflict)

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