

Crisis as Opportunity:

Innovation in Federal Homeland Security Agencies, 1946-2004

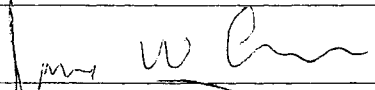
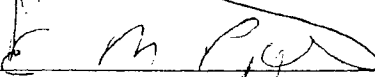
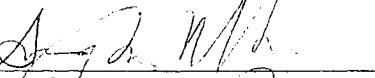

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**Crisis as Opportunity:
Autonomy in Federal Homeland Security Agencies, 1946-2004**

By Patrick S. Roberts

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Abstract

This dissertation provides a history of post World War II homeland security agencies. It analyzes how different kinds of agencies adapt to address new problems and, where they fail to do so, aims to discover what causes their failure. How an agency adapts, however, depends on whether or not it possesses bureaucratic autonomy. Therefore, the account that follows highlights and evaluates the role that bureaucratic autonomy plays in adaptability. Autonomy occurs when, over a sustained period of time, agencies develop and exercise preferences independent from those of the president or Congress. Three agencies presented here gained a relatively high degree autonomy, the Central Intelligence Agency, Federal Bureau of Investigation, and Federal Emergency Management Agency. Two did not: the Immigration and Naturalization Service and Federal Aviation Administration.

By itself, bureaucratic autonomy is neither bad nor good. Rather, it affects *whether* and *how* agencies adapt. All agencies can potentially adapt, but the level of autonomy affects the way in which agencies might change. For an agency that possesses autonomy reformers must understand the sources of its autonomy—whether in the nature of its tasks or in its connection to powerful groups—in order to direct the agency to focus on new tasks. Autonomous and non-autonomous agencies alike adapt when they have three kinds of resources: a profession, administrative politicians, and an adaptable organizing concept. Bureaucratic failure and a lack of adaptability can be traced to a lack of these three resources.

Preface

On September 11, 2001, nineteen Arab men hijacked four American commercial airliners and, with 24,000 gallons of jet fuel aboard each, turned them into flying bombs. Two struck New York City's signature Twin Towers, the buildings of the World Trade Center. One hit the Pentagon and another, intended for Washington DC, missed its target and crashed into a field in Pennsylvania after a passenger revolt. Approximately 3,000 people were killed, exceeding the toll of 2,400 dead after the Japanese surprise attack on Pearl Harbor. By the next day, media the world over had transmitted the now famous image of the second airplane plowing into the south tower of the World Trade Center and declared it a world-altering moment. The French newspaper *Le Monde*, often critical of the United States, ran a front-page headline reading "*Nous sommes tous Américains.*" In London, Buckingham Palace played the US national anthem during the changing of the guard. The world's response brought home the unprecedented nature of the event.

In the immediate aftermath, the US placed security forces on a high state of alert and—for the first time—suspended civilian air travel for three days. Shortly after the attacks, al Qaeda, a militant Islamic group, and its leader, Osama bin Laden, claimed responsibility.¹ President George W. Bush ordered a military offensive against the group, the first initiative in what came to be known as the "War on Terror." In October 2001 the US invaded Afghanistan, where bin Laden and his conspirators were believed to be hiding.

At home, the US investigated whether the attacks were preventable and began to build a bureaucracy around a novel term: "homeland security." Before 9-11 the term was

¹ Bin Laden initially denied responsibility but then circulated film showing him celebrating the attacks.

used by Pentagon bureaucrats to refer to missile defense programs. After 9-11 “homeland security” became a household name referring to the collection of federal agencies engaged in defense against domestic and international terrorism. Civil servants in these agencies had never before seen their work as part of a collective counterterrorism enterprise, though federal agencies had been doing homeland security for at least half a century. The Central Intelligence Agency and Federal Emergency Management Agency both had ancestors in World War II and Cold War bureaucracies that defended the US against foreign attack. Immigration agencies had long been concerned about who was entering the country, though security missions were often buried under a host of other concerns. Similarly, the Federal Aviation Administration had always been responsible for aviation security, though safety was a more pressing concern until a rash of hijackings in the 1960s and 70s put terrorism on the public agenda.

The aftermath of the attacks of 2001 focused attention around these agencies’ collective responsibility to prevent and respond to terrorism. Congress and the president chartered commissions to investigate whether the attacks could have been prevented. Foremost among these, the 9-11 Commission, published a bestselling record of its probe. Commissioners concluded that the US was vulnerable to attack because of the failure of intelligence and law enforcement officials to “connect the dots” and piece together signs of a terrorist plot. Contradictory immigration policies and a broken border security system also contributed further to US vulnerability.

Not all blame levied at the bureaucracy is warranted. Popular accounts refer to 9-11 as “the world’s worst failure of airport security.”² That perception led Congress to

² Wikipedia is one example of the conventional wisdom. See <http://en.wikipedia.org/wiki/Airport_security>, accessed 4.28.05.

create the Transportation Security Administration in November 2001 to perform tasks formerly handled by the Federal Aviation Administration. From then on all airport passenger screening was to be conducted by federal employees; prior to that date, screening was conducted by private companies with lower standards for employment. Despite the belief that the poor quality of baggage screeners might be to blame, airport personnel followed the letter of the law on the day of the attacks. The hijackers subdued passengers and crew using small knives that were legal onboard airplanes before 9-11; only knives with blades greater than four inches long were prohibited. The hijackers entered the US legally on temporary tourist visas and all possessed drivers licenses and ID cards.³ Baggage screeners, though, were a convenient target—one that could be immediately federalized—while the more serious vulnerabilities would require coordinating diverse intelligence, law enforcement, immigration, and disaster response bureaucracies.⁴

Domestic and international terrorists continue to target the US and undoubtedly future attacks will take new forms. The fundamental question, however, is whether a bureaucracy like the DHS can innovate to address new threats before another attack occurs. Can we expect a bureaucracy to adapt to a new environment and anticipate problems before politicians recognize them—before it is too late? Even the Department of Homeland Security, which opened its doors in March 2003, was only a first step towards reducing vulnerabilities to terrorism and hardly a solution to these problems.

³ Later testimony suggests that they may have doctored their passports and that their VISA applications should have raised red flags.

⁴ Though the TSA succeeded in raising the average qualifications of airport baggage screeners—Paul Light (2002) called the agency’s creation one of “government’s greatest successes”—Congress recognized its ultimate superfluity. Legislation creating the Department of Homeland Security contains a clause permitting the elimination of the TSA as a “distinct entity” after November 2004. By that year the agency had not been abolished but many of its functions had been transferred to private entities.

Many of the most important agencies charged with defending against attacks, including the CIA, FBI, and the visa agency within the Department of State, were not included in the new department. Some agencies included within the new department, such as the Federal Emergency Management Agency, had already proven they could adapt to new problems by improving communication with both politicians and the public. Others, including the Immigration and Naturalization Service, had long struggled to define what their missions should be, even before terrorism entered the agenda.

This dissertation has three main objectives. The first is to provide a succinct narrative of the history of post World War II agencies responsible for homeland security, even before the coin was termed. I focus on the emergency management, intelligence, immigration, and aviation bureaucracies because these are the principal sites of counterterrorism policy. Counterterrorism, though, is only one responsibility among many for these agencies. Each has juggled several missions throughout its history—including basic law enforcement, preparation for natural disasters, and ensuring the free flow of goods and people—which may be more urgent than counterterrorism at a given time. The agencies now in the DHS face the same problem. Despite the media attention given to terrorism, we are not besieged by terrorists. If homeland security is to succeed as a concept and as a department it must be more than just terrorism. The concept of security must encompass all kinds of disasters as well as international terrorists and criminals.

A second objective is therefore to analyze how different kinds of agencies adapt to address new problems or, where they fail to do so, to discover what causes their failure. A nuanced understanding of the conditions under which agencies address new

problems should help clarify the proper place for public administration, a particularly urgent task at a time in which private organizations are often assumed to be more nimble and efficient.

How an agency adapts, however, depends on whether or not it possesses bureaucratic autonomy. Some agencies adapt according to explicit direction from politicians, but such cases show political foresight more than agency innovation. Politicians will not always have the foresight, time, or knowledge to direct agencies how to adapt. In these cases, agencies will have to adapt on their own, without detailed help from their political superiors. This leads to the third and principal aim of the dissertation, which is to highlight and evaluate the role that bureaucratic autonomy plays in adaptability. Autonomy occurs when, over a sustained period of time, agencies develop and exercise preferences independent from those of the president or Congress. By itself, bureaucratic autonomy is neither bad nor good. Rather, it affects *whether* and *how* agencies adapt. The history of autonomous agencies points to the limits of reform. Politicians can only do so much to bring about change in autonomous agencies absent a world-altering crisis, and even then the lasting impact of politician-led change remains unclear. The development of homeland security agencies presented here illustrates why autonomy is central to bureaucratic innovation. All agencies can potentially adapt, but the level of autonomy affects the way in which agencies might change. For an agency that possesses autonomy reformers must understand the sources of its autonomy—whether in the nature of its tasks or in its connection to powerful groups—in order to direct the agency to focus on new tasks. For an agency without autonomy, politicians and private reformers alike would do well to address the social structures outside the agency—

professions, interests, rhetoric and collective understandings—in order to redefine the agency’s problem area.

It is easy but ultimately shortsighted to dismiss bureaucratic autonomy as undemocratic and call for political oversight. The tasks required of contemporary government are too complex and too varied to be led by lapidary expressions of the public will alone. Bureaucracies must have both enough independence to be a source of innovation and be subject to enough political control to be accountable. How agencies navigated this divide during the shifting political and social environment of the late 20th century is the subject of what follows. This dissertation is intended for two audiences: one with theoretical interests in adaptability and in the concepts of reputation and autonomy and one interested in homeland security policy for its own sake. Clearly, both audiences have different requirements. I hope to satisfy the first by unpacking the causal mechanisms underlying reputation and autonomy for two types of agencies, elemental and clientele. For the second, this dissertation provides knowledge useful to policymakers embarking on reorganization and engaging in the enterprise now known as homeland security.

1

Introduction

The government's response to 9-11 raises central questions for 21st century public administration: how can federal agencies adapt to new environments before a crisis occurs? Is such adaptation even reasonable to expect from government organizations? Following a crisis, can federal agencies adapt or will they inevitably overreact? Some public organizations, at least, can adapt well under the right conditions. Emergency preparedness agencies, for instance, were able to transition from civil defense to defense against natural disasters—not without a struggle but with some success. The Federal Emergency Management Agency went from being threatened with extinction to becoming, at least for a time, one of the most respected agencies in government. FEMA developed a degree of autonomy that helped it to make connections with states, localities, and the emergency management profession. These connections, in turn, led the agency to focus its tasks on the public's most urgent needs.

After Hurricane Katrina, however, the agency lost a significant degree of autonomy and its reputation plummeted. The agency had an especially difficult time balancing its counterterrorism responsibilities with preparation for natural disasters. At the same time, the agency faced obstacles confronted by all American bureaucracies. The increasingly politicized environment, in which the interests of modern presidents lead them to press for “responsive competence” among agency leaders, makes bureaucratic autonomy difficult (Moe 1985). The contemporary political environment adds to the difficulty: a proliferation of political appointees nominated for their commitment to an

agenda as well as an increasingly thick bureaucratic environment in which agencies compete with not just presidential preferences but congressional committees, courts, and interest groups. FEMA represents one particularly fragile kind of bureaucratic autonomy while the CIA represents another more stable though by no means absolute form of autonomy.

Less autonomous homeland security agencies have proven less adaptable than these two. The Federal Aviation Administration helped to reduce the number of airline accidents but it did not experience the same success with intentional, human-caused disasters. The Immigration and Naturalization Service, meanwhile, has long been mired in failure for reasons outside its immediate control.

Homeland security agencies should not be judged by 9-11 alone, but the crisis provides a useful focal point: some agencies were substantially reorganized following the crisis while others resisted reform imposed from the outside. Others innovated to address terrorism even before the attacks. What explains why some agencies were receptive to change while others were not? Recent studies of federal reorganizations are pessimistic about the effectiveness of massive reorganizations (Landy 1994, Radin and Hawley 1988, Zegart 1999). Large reorganizations, because of their size, require compromise among many competing interests. This compromise can frustrate the new organization's ability to achieve the larger goal it was created for. Still, reorganizations are one way in which agencies adapt. Rather than view the birth of the DHS as creation *ex nihilo*, it is better to view it as one reorganization following a long line of others in the history of its component parts. Reorganization, then, is a key part of adaptability, and something that homeland security agencies have experienced throughout their histories.

Reorganization does not proceed neatly, with politicians laying out a detailed blueprint and agencies following in lockstep.¹ Typically, the president and pivotal groups in Congress formulate general goals and create new structures, leaving the details up to the agencies being reorganized. A thorough reorganization, then, requires some autonomy or independent direction from agencies. More autonomous agencies develop and act on preferences that are distinct from those of the president, Congress, or other agencies over a sustained period of time. Less autonomous ones, in contrast, are nearly pure agents of their political superiors. They may develop some independent preferences, but these are never acted upon.

To be sure, autonomy is a relative, not absolute, quality.² All agencies exercise some autonomy, and some agencies with a great deal of autonomy might later lose it. In a politicized political environment, autonomy is particularly difficult to attain. The interests of the modern president and Congress lead politicians to eschew the “neutral competence” of career civil servants for the “responsive competence” of politically loyal staff and appointees. The result is a bureaucracy in which agencies have a difficult time advancing their own perspective. Carpenter invokes FDA as the paradigmatic example of an autonomous contemporary agency, but even here bureaucratic preferences have been squelched by political concerns.³ Despite the difficulty of obtaining it, some agencies do exhibit autonomy. In such cases, an agency can reorganize according to its own preferences; often the knowledge and resources provided by an agency’s professional

¹ Scholars often analyze the process of organizational learning in studies of adaptation (Cyert and March, 1963; March, 1988). Bureaucratic autonomy and its sources affect how an agency learns. Chapter 7 examines learning, specifically, in greater detail.

² A more complete explanation of how autonomy is measured can be found in chapter 2.

³ Carpenter (2001, introduction) refers to the FDA as “one of the nation’s most powerful federal agencies” but with that power has come charges of politicization. See, for example, Marc Kaufman, “FDA Official Quits Over Delay on Plan B,” *Washington Post*, 9/1/05, A08.

staff can lead to a more coherent and durable reorganization than one led by politicians, as studies of failed reorganizations show (Hufstedler 1990, Radin and Hawley 1988).

Autonomy affects two basic properties, agencies' capacity to adapt and the manner in which they adapt. The more autonomous an agency is, the greater its capacity for adaptation. Agencies that develop autonomy from the president and Congress can be particularly innovative because they can make policy independently of their political superiors. For instance, agencies whose autonomy stems from a reputation for serving a particular social group—the 19th century Post Office's connection to moral reformers comes to mind—may adapt to meet the group's changing needs. Ties to these groups may be tenuous, however; today the postal service lacks its former autonomy and carries out routine services, not the moral regulation that characterized its Progressive Era predecessor. The example of the Post Office shows that reputation-based autonomy does not last forever. At the peak of their strength, autonomous agencies can be particularly frustrating for congressional reformers because they can either shape institutional change on their own terms or resist it altogether.

Less autonomous agencies are more responsive to the preferences of the president and Congress and thus more constrained in their potential to adapt. Some regulatory agencies lack autonomy either because Congress has permanent oversight or because Congress structures the agency to respond to the changing needs of particular interests, as in the case of agricultural programs for farmers (McCubbins, Noll, and Weingast 1987). Other agencies might have tremendous power in society but lack the ability to act independently or to resist the commands of the president or Congress because they are mired in bureaucratic failure as a result of conflicting or confusing missions. They can,

however, innovate if given the authority to carry out a specific mission. The FAA, for example, cooperated with private organizations to dramatically improve airline safety. The FAA's numerous safety innovations allowed it to adapt successfully, over time, to a political environment in which the public had nearly zero tolerance for risk. In the case of less autonomous agencies, political leaders must work continuously to define their organizing goals or else the agencies will stagnate in confusion and contradiction.

In theory, politicians can direct agencies to meet new needs by passing legislation or issuing executive orders. The vast majority of legislative proposals for reorganization, however, fail to bring about their intended effects (Radin and Hawley 1988, 33).⁴ In order to craft effective legislation that fosters adaptability, policymakers need to understand the nature of the agency, specifically whether or not it possesses autonomy.

Beyond that, the sources of bureaucratic autonomy affect how agencies adapt. Without identifying the proper sources, would-be reformers are ineffective at best and at worst their actions lead to a host of unintended consequences, as the chapters that follow demonstrate. There are two main paths to bureaucratic autonomy. In the first instance, politicians grant autonomy, or essentially extended discretion, to agencies that develop a *reputation* for fulfilling a need among the public. The term *clientele agencies* designates public organizations that gain power from reputation through a close connection to social groups. Reputations are fragile, and clientele agencies have a tenuous hold on autonomy, as the history of FEMA in chapter four shows. Not all agencies, however, fit the reputational model. Other agencies gain autonomy because of the nature of their tasks. Some agencies perform tasks that involve secrecy and haste and, by their nature, make

⁴ Proposals for reorganization frequently fail to bring about their stated intentions. One may, however, make a distinction between stated intentions and intended effects, with the latter being more likely.

oversight difficult. The CIA and FBI are the paradigmatic examples. In addition, these agencies perform tasks that are *elemental* to the perpetuation of the state; without them, the state would not exist. For instance, large modern states have a territorial basis and must defend that territory and provide for internal order and basic infrastructure.⁵ We could imagine a large power without, for example, an effective Environmental Protection Agency but not one without a robust intelligence capability.⁶ Elemental agencies perform functions that states need to survive over a long period.

Elemental agencies perform tasks whose nature frustrates oversight. In addition, their work may be regarded as inherently governmental. Their functions are not easily replicable by the private sector or by other government agencies; much of what they do is essential to governing yet unique to them, possessing, in the language of organizational economics, “asset specificity.”⁷ Elemental agencies exercise a combination of secrecy, energy, and dispatch that grants them some independence and distance from the immediate preferences of politicians.

These two types of agencies are not merely variables; rather, they represent analytic categories that are part of a larger theory of the state.⁸ Almost all agencies are a mix of elemental and clientele attributes. Still, the categories are useful because, as chapter two and three will show, they capture the way in which an agency obtains

⁵ Michael Mann (1984, 1986) concludes that the maintenance of internal order and military defense are integral to the modern state; intelligence gathering is part of these basic tasks. Also see Tilly (1975). A possible objection is that some small states lack an intelligence organization. These states would not fully be states for long—they would either depend on larger states for protection or be overrun.

⁶ Modern states may not require an EPA, but the post-modern state may. What is required for the perpetuation of the state is, to some degree, socially constructed. For a task to be elemental requires that a significant proportion of the public believe it to be so. The population of rich states that develop postmaterialist values may believe that control and protection of nature is central to what it means to be a state. On the emergence of postmaterialist values, see Inglehart (1997).

⁷ In his discussion of asset specificity, Williamson (1981, 561) makes adaptability a central criterion for evaluating organizations.

⁸ I draw on the theoretical and historical work of Kamenka (1989), Mann (1984, 1986), Tilly (1975) and Weber (1946) for my outline of the concept of the state.

autonomy. Elemental agencies gain autonomy through the essential and energetic nature of their tasks. In brief, to be a modern state requires maintaining integrity over a sustained period of time.⁹ Integrity, in turn, requires internal order and defense against outside aggression, both of which depend upon revenue collection. A state can have any number of potential political systems, but each of these requires some form of administration to implement the system and perpetuate the state. In contemporary large powers, the military, federal police, intelligence agencies, and a taxing or tariff authority fulfill these functions. Such agencies may not fulfill them perfectly, and these agencies may be large enough to contain some divisions that perform clientele functions. Even so they perform enough truly elemental functions to possess sufficient energy, secrecy, speed and asset specificity so that politicians grant them sustained discretion.¹⁰ In addition states require some authority to ensure the free flow of people and goods since, by definition, states have a territorial basis. The 18th and early 19th century Post Office handled these duties but by the 20th century the same tasks could be performed by private entities. Mail delivery, for example, was no longer inherently governmental, and the Post Office became almost exclusively a clientele agency. Some US agencies performed clientele functions from the beginning, but the kudzu-like expansion of entire agencies devoted to clienteles rather than to a particular function began in the late 19th and early

⁹ To fully be a state, or what some term a large power, requires maintaining security without help from other states. A possible objection is that some small states lack an intelligence organization. In truth, these states would not fully be states for long—they would either depend on larger states for protection or be overrun. Even most small and peaceful states maintain a secret intelligence organization.

¹⁰ These categories are stable over time, but employing them does not mean that bureaucracy has not changed in significant ways. Mann (1984, 113-118) documents the state's growing infrastructural and logistical power over the past millennium even as its despotic power declines; the contemporary state has greater powers of surveillance and regulation than ever before while individual autonomy is better protected from state interference. This produces a new kind of indirect state power which is closer to bureaucratic regulation than to coercion. The major features of modernity shape the growth of the state. These include: the state's greater capacity for logistical control combined with a lesser capacity for despotic power; the public's decreasing tolerance for risk; and the increased flow of people, goods, and information across borders which is frequently termed "globalization."

20th century. These agencies targeted the changing needs of particular groups, whether political, social, or geographic. They are superfluous to what it means to be a state but they can amass great power and they need not be less useful or effective than elemental agencies.

The theoretical categories discussed in more detail in chapters two and three lend precision to the analysis of homeland security agencies that follow. Whether and how bureaucracies can adapt takes on particular urgency if the proper functions and responsibilities of government remain in doubt. Contemporary federal agencies struggle to find their niche among layers of public, quasi-public, and private organizations fulfilling public needs. How much can we expect of public administration? As noted earlier, understanding how to reorganize agencies to be able to adapt to new challenges requires understanding whether agencies are autonomous or not. This is the first step towards defining the role they should occupy in the political landscape.

Scholars have struggled to assess the relative success of public agencies. How well does an agency serve the public? The personal reputation of an agency leader and the length of time an organization has been in existence are both common but flawed measures.¹¹ The challenge is to be entrepreneurial—to structure agencies to identify and face new challenges before a crisis occurs.¹² This requires developing new missions and new core tasks and then institutionalizing changes so that they persist past the environment that created them. Sometimes this requires preserving old missions and tasks in the face of new responsibilities, and sometimes this requires eliminating old functions and reducing the claims government makes on taxpayers. The proper test of success,

¹¹ Biographies of Robert Moses (Caro 1975) and J. Edgar Hoover (Gentry 1991) highlight the mixed legacies of leaders who were greatly esteemed during their lifetimes.

¹² Adapting to new challenges before a crisis is a key feature of public value for Moore (1995).

then, is to determine whether an agency is *adaptable* to new challenges. The goal of adaptability favors neither big government nor small government but a government that can face new challenges over time; it may require decentralized decision-making, as North (1990, 80-81) claims, or it may require centralizing functions under a single hierarchy to improve the focus on a single task.

To get at the obstacles that stand in the way of adaptability, this dissertation examines both more and less autonomous agencies; among the former category some develop autonomy through building a reputation, while others possess it because of the elemental nature of their tasks. There will always be too many independent variables to statistically control for all possible explanations for why some agencies have autonomy. Nevertheless, the variation among agencies possessing autonomy and reputation permits analysis of their histories in order to uncover the connections between reputation, the nature of an agency's task, autonomy, and adaptation or stasis. Some agencies have a great deal of autonomy and good reputations while others have autonomy and poor reputations; the same variation in reputation holds for agencies with little autonomy. Chapters four through seven consider agencies at both ends of the autonomy scale (see figure 1). I borrow widely from various social science schools but the method for analysis is first and foremost historical; my research employs original archival collection, interviews, and imperial pillaging of secondary sources.

Each agency presents a substantive puzzle arising from its dramatic change or stability, and the history of each is a fascinating instance of the development of the contemporary bureaucracy. To some degree, my cases have selected me rather than the other way around, as Robert Bates (1998, 13) has put it. Even so, these four sets of

agencies fulfill my analytic purposes in providing empirical ground for understanding the relationship between reputation and autonomy in institutional change and stability.

Aside from adaptability, bureaucratic autonomy speaks to concerns about the possibility of democratic accountability in an increasingly complex society (Behn 2001). Those agencies that possess autonomy because of the nature of their tasks—the CIA is one example—pose the greatest problems for accountability. At a distance from the political process and isolated from social groups, they are largely self-directed. Such agencies need not be disasters, but their structure creates particular problems. Self-directed, autonomous agencies can lose touch with public needs and adapt to serve bureaucratic aggrandizement rather than their original missions. Understanding how bureaucratic autonomy contributes to adaptability is a first step in thinking about how to balance the amount of independence agencies need to be effective with the amount they can have while still remaining accountable to the public.

2

How are autonomy and reputation related?

The term bureaucratic autonomy has been used so often and in so many different ways in recent scholarly literature that its meaning requires further clarification. As noted earlier, bureaucratic autonomy often refers to agencies that act independently of the president, Congress, or other agencies. Commentators have offered several explanations for how agencies gain room to act: principals who are silent or unable to coordinate effective action because of divided government (Volden 2002); principals who are indifferent, especially to obscure regulatory concerns (Weingast 1981); information asymmetries, given that agencies possess vastly more time and expertise than politicians (Wilson 1989); and conflicts between the president and Congress over control (Cook 1988; Wilson 1989). The rational choice and historical institutionalist literature both focus on coordination problems between the president and Congress, or among members of either of those branches. Coordination problems create space for agencies to act, and the result produces the conditions for autonomy.

The easiest test for autonomy, essentially bureaucratic independence and power, is to find instances in which an agency defies the explicit commands or preferences of the president or Congress. FEMA, for example, was able to reverse a White House order to create a new disaster response paradigm after 2001 that would have significantly restructured the agency's mission and core tasks. This criterion seems unnecessarily

strict, however, since these instances are rare. Historical institutional research defines autonomy as a period of sustained political deference to agencies that comes about because of historical developments such as civil service reform (Johnson and Libecap 1994; Skowronek 1982) and the emergence of bipolar regional or partisan coalitions that defer to the bureaucracy as a disinterested third party (Bensel 1984; Bensel 1990). Historical studies admirably attempt to follow the process behind the development of autonomy but most fail to provide accounts that can be extended beyond the agencies and historical periods studied.

The discussion found here attempts to analyze how autonomy shapes attempts at reorganization and agencies' own attempts to adapt to new problems. This approach defines and makes distinctions between more and less autonomous agencies and then addresses the various sources of autonomy, whether in an agency's reputation or in the nature of its tasks. While prior research has invoked the term autonomy, this chapter shows how the nature and stability of autonomy depends on its sources. Whether an agency is closer to the elemental or clientele type affects how it adapts.

To capture the full range of agency autonomy, this dissertation accounts for autonomy in the various situations in which agencies act over a sustained period of time in ways not dictated by the president, Congress, or other agencies.¹ This could include instances in which an agency forces its political principals to reverse a command and *defer* to the agency or when an agency *resists* enacting a political directive. Agencies can also act autonomously by wielding *influence* through changing the preferences and perspectives of politicians and the public over time by restructuring ideas, agendas, and

¹ Barnett and Finnemore (2004, 11) define autonomy in a similar way, as multiple periods of institutions acting independently though not necessarily defiantly of their purported superiors.

material incentives.² Testing whether an agency has a significant level of influence requires detailed historical analysis that does not follow a single linear path but rather considers how autonomy develops from social structures and institutions and how an agency's autonomy in turn influences these structures and institutions. In a few cases, an agency might act independently of, but consistent with, the interests of its principal. Establishing autonomy in such a case requires detailed historical analysis that explains the kind and character of autonomous behavior.

A definition of autonomy may also include an agency that is too thick or impenetrable to be changed without great cost. Layer after layer of procedure and organization can provide insulation for core tasks, leaving an institution bogged down in its own bureaucracy if not completely stuck there for all practical purposes. Autonomy through insulation is less impressive than autonomy as deference, resistance or influence. Among the agencies studies here, it is the leads frequently observed kind of autonomy.³

The second concept in my study, reputation, provides a foundation for autonomy for some agencies. A good reputation is a positive assessment by a pivotal segment of the public or by experts of an agency's performance. A positive assessment is a perception, though it is usually tied to the actual performance of a service or delivery of a good. This dissertation employs several measures for reputation: public opinion polls, expert studies, and assessments in both the news and opinion media. In measuring reputation, we cannot usually distinguish between public assessments of the value of the tasks an agency carries out from assessments of an agency's effectiveness in accomplishing those tasks. Even if

² Krause (1996) defines autonomy as influence.

³ While all agencies are insulated to some degree, none of the agencies examined here gain autonomy primarily from insulation. FEMA is a fairly small and nimble organization with streamlined oversight; the CIA and FBI are thick bureaucracies but they are amenable to reorganization.

the CIA's covert operations were effective in assassinating foreign leaders, for example, a number of people would continue to object to a task of this nature. In most cases, though, agencies do and should strive for a good reputation since it is usually tied to good performance; what remains to be explained is exactly how it intersects with autonomy.⁴

Two kinds of functions

Agencies achieve autonomy in different ways, depending on whether the agency has more *elemental* or *cliente* functions.⁵ Elemental functions have existed since the American founding, as extensions of the power of the executive, operating in a bureaucratic system similar to the military command structure.⁶ The founders, and especially Hamilton, had a robust understanding of the character of administration in its infancy. Founding era agencies had the basic features that have characterized administration throughout American history (Van Riper 1983, 477-480).⁷ To this day, elemental agencies fulfill the basic functions of government; national security agencies, most law enforcement agencies and revenue collection agencies such as the Treasury are

⁴ The economics literature has long claimed that acquiring a good reputation is a way to achieve results that are "better than rational" by giving individuals reason to overcome the temptation to act on short term self interest. See Kreps (1990); Milgrom, North, and Weingast (1990); Ostrom (1998). In addition, reputation functions more generally as a heuristic for performance (Petrocik 1996). Agencies use reputation in both these ways. At bottom, it serves as an asset that allows politicians and the public to trust that an agency will act consistently and effectively in the future. In many cases, the trust that a good reputation engenders either leads politicians to defer to the agency or it leads social actors, such as professions or groups with common ideas and interests, to lend their support to the agency.

⁵ See appendix for greater detail about the characteristics of elemental and cliente agencies.

⁶ FDR's aside on the autonomy of military agencies is classic: "The Treasury is so large and far-flung and ingrained in its practices that I find it almost impossible to get the action and results I want—even with Henry [Morganthau] there. But the Treasury is not to be compared with the State Department. You should go through the experience of trying to get any changes in the thinking, policy, and action of the career diplomats and then you'd know what a real problem was. But the Treasury and the State Department put together are nothing compared with the Na-a-vy. The admirals are really something to cope with and I should know [as a former secretary of the Navy]. To change something in the Na-a-vy is like punching a feather bed. You punch it with your right and you punch it with your left until you are finally exhausted, and then you find the damn bed just as it was before you started punching" (Eccles, 1951, 336; quoted in Lord 2003, 247-248).

The debates in 1789 over the power to remove cabinet officers reinforced the idea that administration was an extension of democratic government and not an independent source of power. Still, who controlled that extension, whether the president or Congress, would become a source of continual debate (Madison 1789).

⁷ These features are hierarchy, continuity, impersonality, and expertise (Weber 1946).

a few examples of agencies whose elemental functions dominate, even if portions of the agency serve clientele. The United States' existence as a large power would be threatened without an agency to fulfill intelligence functions while it could exist without, for example, a Department of Agriculture, whose functions could be performed by private organizations.⁸

Elemental agencies are a paradox of autonomy. On one hand, these agencies were designed to be merely extensions of legislative or executive power. On the other hand, their elemental nature as essential to the basic functions of government—war, security, revenue collection, and regulation of basic infrastructure—gives them an extraordinary amount of autonomy. Their functions cannot be eliminated or replaced and they do not depend on social movements or interest groups to define their missions or to lend support. The president and Congress rely on these agencies to perform essential tasks, and this reliance leads the principals to give a great deal of deference to elemental agencies.

Not all agencies fit the founding model, however. The 20th century saw increases in technical capacity and complexity and a series of innovations referred to as the “administrative state.” Agencies were created not simply to fulfill fundamental tasks but to serve particular interests, amalgamations of constituencies, and “stakeholders” (Nelson 1982). To be sure, agencies were created with missions and not just client groups in mind but these missions were outside the scope of what executive power traditionally accomplished in American history. These *clientele* agencies had relatively open-ended

⁸ It is, of course, not likely that a large state power would lack the equivalent of the Department of Agriculture; agencies exist for all sorts of non-rational reasons such as institutional isomorphism. In addition, there are rational reasons to have an agency charged with securing a predictable food supply. This power is not, however, connected to what it means to be a modern state whose basic functions are maintaining internal order, military defense, maintenance of a communication infrastructure, and economic regulation (Mann 1984, 120-121).

missions to serve the needs of particular groups, making the agencies particularly dependent on their constituencies. Numerous agencies within the “holding-company” departments of Agriculture and Education depend on a good reputation among their particular clienteles for their power. By contrast, elemental agencies also have stakeholders but they are not as dependent on outside groups to define their mission. The Department of Defense, the CIA, and units of the Treasury have relatively well defined core tasks and they usually make policy by cooperation between bureaucrats, the president and Congress while including few interest groups.⁹ In another example, the IRS has a good reputation among members of Congress and their staffs for predictably delivering revenue, but this is quite different from the reputation the early Post Office or the contemporary FEMA had for fulfilling a need among social groups.¹⁰ The IRS is unpopular among the public—its many organizational problems from time to time lead the public to campaign for Congress to rein in the agency—and yet the IRS retains a great deal of autonomy because of its elemental nature. Elemental agencies gain independence on two fronts: they are not constrained by the changing needs of their stakeholders to the degree that clientele agencies are, *and* politicians give them an extraordinary degree of deference because their tasks include secrecy and information control and are essential to the preservation of the state. Though secrecy provides room for autonomy since, by definition, politicians have trouble exercising oversight of secretive agencies, secrecy alone does not produce autonomy. Chapter five shows a CIA and FBI that publicize their goals and priorities even if they conflict with the preferences of politicians. The president

⁹ All political actors, elected and non-elected, operate within broad limits set by the Constitution and enduring social consensus.

¹⁰ Krause and Douglas (2005) find that agencies are concerned with their general reputation beyond just their relationship with political principals. “Our empirical evidence suggests that these particular agencies’ concern with reputational considerations are fairly homogeneous and thus outweigh the varying political pressures that they confront attributable to the institutional structure that they operate under.”

and members of Congress can read these agencies' versions of annual reports and notice how they diverge from the agendas of politicians and experts and still the agencies remain strikingly independent.

How are reputation and autonomy related?

The history of homeland security agencies shows that some pursued autonomy by building a reputation while others did not. What, precisely, is the relationship between these two variables? Carpenter (2001, 4) argues that the source of autonomy lies in a strong reputation grounded in ties to social networks and that the most successful agencies have a great deal of autonomy.

[Insert figure 1 about here]

[Insert 2 about here]

This relationship holds for some homeland security agencies; FEMA has both high autonomy and a good reputation while the INS has low autonomy and a reputation for failure. In each case, a poor reputation prevented the agencies from gaining autonomy, but with time FEMA was able to innovate to improve its reputation and win the trust of the public and politicians and, therefore, autonomy. Nevertheless not all agencies conform to Carpenter's thesis; some agencies have bureaucratic autonomy and weak reputations. The CIA and FBI managed to retain their basic organizational structure despite a succession of notorious intelligence and law enforcement failures lamented inside the beltway and widely publicized in the popular press. As major failures came to

light, the trust that the president, Congress and the public placed in the intelligence agencies slowly eroded. The agencies' budgets and authority, however, never suffered as much as did their reputations. The FAA, on the other hand, maintained a relatively good reputation even as it was unable to enforce many of its proposals for increased airline security.¹¹ What explains these outcomes?

To better understand the anomaly of the poor reputation-high autonomy agency, we must investigate the causal mechanisms behind reputation and autonomy with the possibility that multiple and different causes can produce. Recall that agencies are not purely elemental or clientele but rather in many agencies the majority of the most important functions are either powerful tasks necessary for the preservation and security of the state or tasks built to serve the changing needs of particular constituencies among the public. The research presented here shows that:

Elemental agencies do not rely on reputation to gain autonomy. Instead, they gain a degree of autonomy from their nature of their tasks, as powerful and essential elements of executive administration.

Clientele agencies that serve particular interests rely on reputation among those interests and ultimately the wider public to secure autonomy.

Separating agencies by their level of reputation and autonomy can shed light on the virtues and pathologies of particular institutions. Agencies with a good reputation and

¹¹ This study concerns homeland security agencies but the classifications employed here can be extended to other agencies. The Social Security Administration, for example, has had a good reputation but very little autonomy.

high autonomy perform well and are some of the most innovative in government, approaching “adaptive efficiency” (North 1990, 80-81). Agencies with a poor reputation and low autonomy, however, are in danger of being mired in failure. These have neither the connection to social groups that might signal changing public needs nor the independence to initiate new programs. Both types of agencies, elemental and clientele, can develop autonomy, though each does so in a distinct way. Carpenter and others have established a relationship that this dissertation confirms:

For clientele agencies, a good reputation leads to bureaucratic autonomy.

But this relationship leads to a question: Why and how is autonomy founded in reputation? Carpenter argues that a reputation “for expertise, efficiency, or moral protection” that is “socially rooted” in ties to social movements and organizations and that cut across party lines gives agencies an independent source of power (Carpenter 2000; Carpenter 2001, 4-5). While this was true of agencies during the rich associational life of the progressive era, contemporary agencies exist in an environment of technical and organizational complexity, a pervasive media, and more direct connection between the federal government and individuals. Though powerful cross-cutting social movements are rare today, agencies may gain power from association with other social elements such as professions, the media, and private sector ideas. These factors can be tools for self-criticism, recruitment, training, and image management, each of which can help an agency to innovate, focus its missions and hone its core tasks.

Clientele agencies develop a strong reputation through associations with the media, influential ideas, and especially professions. These social factors or networks operate as a feedback mechanism to induce agencies to adapt to meet new needs and changing circumstances.

The most important factor for building a reputation, as well as for supplying the necessary resources for adaptability, is a mature profession. In an era of decentralization and politicization, most federal agencies are starved for resources. Professions provide information and acculturation through universities, training programs, conferences, and bulletins aimed at an agency's most important resource—its people. These institutions outside an agency help to focus the missions and organizing concepts that define what an agency does and how it performs its tasks. The resources and feedback mechanism provided by a profession help to build an agency's capacity and improve its reputation. A profession is, by definition, self-regulating. Some may be little more than loose conglomerations of occupations, but a mature profession includes members who are paid an above average salary, obtain graduate education, are certified, and identify with a collective enterprise (Brint 1994, Sharma 1997). Thus, a mature profession provides an agency with a source for a coherent and independent perspective that can foster autonomy. Golden (2000) finds that agencies that have a strong professional presence exercise greater independence from politicians (though her study examines lawyers and scientists rather than professions in general).

A final difference between primarily clientele agencies and elemental ones is their relationship to the public outside the members of the agency's profession. Agencies with

a reputation to preserve incur a cost for their actions (or inaction) that might affect the level of esteem among a key social group and, then, the wider public. Therefore, clientele agencies pay particular attention to the degree of esteem given them by their target group and are loath to take actions that would offend it. In most cases, having a good reputation among the public or among experts means that the agency is successful in fulfilling a need. Elemental agencies, however, do not incur the same kind of cost for their actions. They are insulated but not impervious for two reasons, first because they have a great deal of control over information and second because their tasks are essential but not easily replicable by other government agencies or by the private sector. Since reputation is not essential to their autonomy, elemental agencies can be difficult to reform from the outside.

Reputation-based autonomy will be less stable than elemental autonomy that arises from the nature of an agency's tasks.

Reputation is, by its nature, a fickle thing. It depends not directly on performance but on opinions about performance held by influential members of the public and politicians. Changing political conditions, a changing social environment, and chance events, sometimes called “exogenous shocks,” can affect reputation. Reputation can sometimes lag behind performance: an academic department may continue to be well-regarded even after it loses some of its best faculty because not everyone is aware of the loss. Core federal agencies, though, face so much media scrutiny that performance failures are broadcast almost immediately. Thus, agencies with reputation-based

autonomy cannot count on maintaining independence for very long, whereas agencies that exercise elemental autonomy can play a waiting game: they can pursue policies of slow change, in opposition to politicians' stated preferences, because the nature of their tasks prevents politicians from radically refashioning the agencies.

Fully understanding the roots of autonomy requires probing the reasons why the American state grew from a few elemental agencies to a universe of overlapping governmental authorities. How reputation and autonomy function changes over time. The ultimate source of agency power lies not in the agency's structure or immediate environment but in the political conditions that gave rise to it. The bulk of this dissertation shows the specific way that reputation and autonomy function in post World War II agencies. The following chapter traces the development of bureaucratic autonomy, from a country of a few elemental agencies to one populated largely by clientele bureaucracies in an increasingly politicized environment.

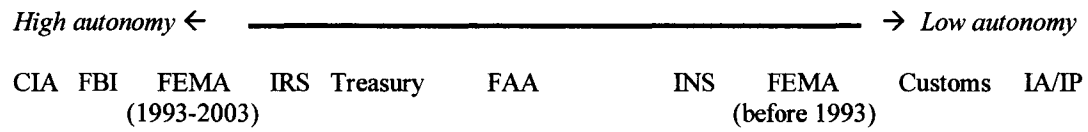
Figure 1. Reputation and Autonomy Scale.

Figure 3.**Agency acronyms**

FBI – Federal Bureau of Investigation

CDC – Centers for Disease Control and Prevention

CIA – Central Intelligence Agency

DHS – Department of Homeland Security

FAA – Federal Aviation Administration

FEMA – Federal Emergency Management Agency

IA/IP – Information Analysis and Infrastructure Protection Directorate (DHS)

INS – Immigration and Naturalization Service

IRS – Internal Revenue Service

SSA – Social Security Administration

TSA – Transportation Security Administration

Figure 4.

The Department of Homeland Security includes four major directorates: Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, and Information Analysis and Infrastructure Protection. The major agencies in each directorate are listed below, with their previous homes in parentheses.

The Border and Transportation Security Directorate

Immigration and Naturalization Service (Justice)
 Customs Service (Treasury)
 Federal Protective Service
 Federal Law Enforcement Training Center (Treasury)
 The Transportation Security Administration (Transportation)
 Office for Domestic Preparedness (Justice)
 Animal and Plant Health Inspection Service (Agriculture)

The Emergency Preparedness and Response Directorate

The Federal Emergency Management Agency (FEMA)
 Strategic National Stockpile and the National Disaster Medical System (HHS)
 Nuclear Incident Response Team (Energy)
 Domestic Emergency Support Teams (Justice)
 National Domestic Preparedness Office (FBI)

The Science and Technology Directorate

CBRN Countermeasures Programs (Energy)
 Environmental Measurements Laboratory (Energy)
 National BW Defense Analysis Center (Defense)
 Plum Island Animal Disease Center (Agriculture)

Information Analysis and Infrastructure Protection Directorate

Federal Computer Incident Response Center (GSA)
 National Communications System (Defense)
 National Infrastructure Protection Center (FBI)
 Energy Security and Assurance Program (Energy)

Agencies reporting directly to the Secretary

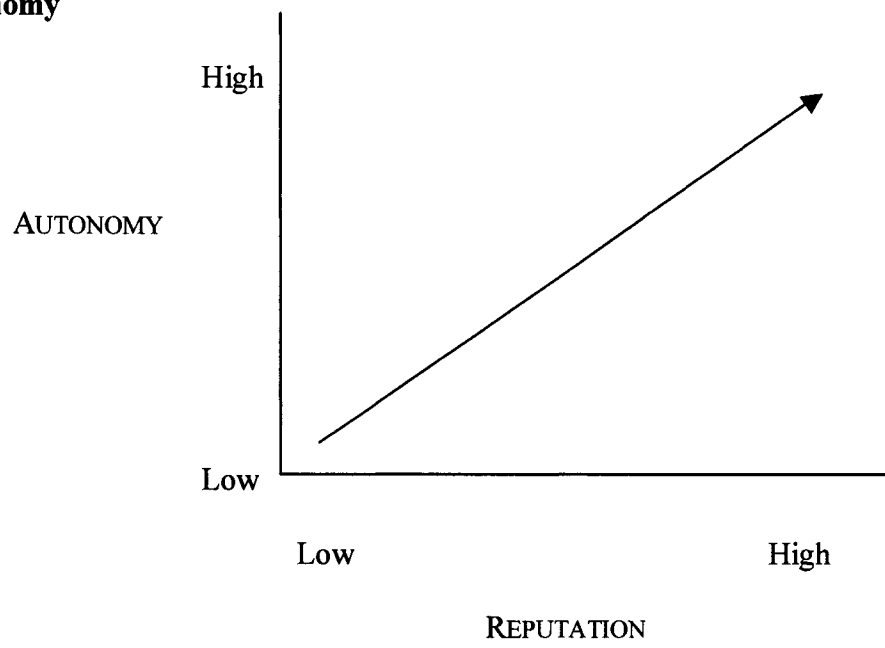
Secret Service
 Coast Guard
 U.S. Citizenship and Immigration Services (INS adjudications and benefits programs)
 Office of International Affairs
 Privacy Officer
 Office for Civil Liberties and Civil Rights
 Inspector General
 Office of National Capital Regional Coordination

Agencies responsible for homeland security *not* included in the DHS

Central Intelligence Agency
 Federal Bureau of Investigation (Justice)
 Defense Intelligence Agency (Defense)

Bureau of Consular Affairs and Visa programs (State)
Terrorist Threat Integration Center
Public Health Emergency Preparedness (Health and Human Services)
Center for Disease Control and Prevention (HHS)
US Drug Enforcement Administration (Justice)
Bureau of Alcohol, Tobacco, Firearms, and Explosives (Justice)
Office of Domestic Finance, Critical Infrastructure (Treasury)
Treasury International Affairs (Treasury)
Numerous State and Local entities

Figure 2. Graph of Carpenter's Claim for the Relationship of Reputation to Autonomy



3

Elemental and clientele agencies during the rise of the administrative state

Bureaucratic autonomy and reputation have both grown in importance as concomitant parts of the administrative state. An increasingly independent bureaucracy that bypasses elected representatives to respond directly to the public will raises questions about sovereignty but, as James Q. Wilson (1999, 59) points out, to raise these questions without analysis of behavior is inadequate and misleading. This chapter provides the necessary background to understand how reputation and autonomy in federal agencies developed over time. These features were not inevitable, but were rather the result of choices made by politicians, bureaucrats and civic leaders who sought solutions to the problems wrought by the complexity of modern life and by an expanding and increasingly diverse nation.

The most striking fact about the contemporary bureaucracy is not its growth in size but rather its growth in scope and purpose such that it consists of layers upon layers of missions and functions. Its disjointed character comes in part from the rise of clientele agencies that were designed to make the bureaucracy more democratic but resulted in more elite control of government. While agencies that have significant clienteles—clientele agencies for short—draw the most ire from critics as conduits for distributive politics (in other words, “pork”), elemental agencies present the greatest conundrum for would-be reformers. They possess more stable autonomy both from social groups and from the preferences of the president and Congress.

Both types of agencies grew in power and number along with the growth of the United States. They each represent an ideal type, and some agencies may contain characteristics of both. To confuse the types, however, risks not understanding how agencies wield power and thus how to reform them. Elemental agencies, on one hand, possessed some autonomy from the beginning because of the nature of their tasks. Their scope was limited in the early republic and they grew, like all agencies, in response to particular crises and territorial realities, economic growth, and as professionalization and then politicization replaced the spoils system. On the other hand, clientele agencies pursued autonomy through another avenue—cultivating a reputation for providing a good or service to a particular segment of the public. These first appeared in the 19th century and by the middle of the 20th private organizations and politicians copied earlier efforts to give social groups representation through a foothold in the bureaucracy. As agencies piled atop agencies, an increasing number of them developed autonomy through two avenues: by having close relationships with social groups and by being either too specialized or not salient enough to merit routine oversight from Congress or the president. Multiple sources for autonomy gave agencies both the power to innovate in order to adapt to new problems and the capacity for accountability to, if not the whole public, at least influential social groups. Clientele agencies performed new functions that may have been quite useful and important but were transparent to politicians. These agencies lacked a history in government that spanned centuries, though potentially a clientele task could one day come to be seen as elemental. Many clientele agencies defined their missions through communication with diverse social groups that otherwise might not have found a voice in the Congress or White House. By the 21st century,

achieving both adaptability and accountability would pose challenges in an increasingly complex and layered bureaucratic environment.

Elemental agencies in early America

Most historians trace the birth of the American bureaucracy to either the Civil War or the New Deal because early Americans were, at best, suspicious of bureaucracy.¹ The first Continental Congress in 1775 struggled to govern through committees rather than bureaucracy but that arrangement proved unworkable. John Adams put in eighteen-hour days to keep up with the work of the ninety committees on which he served. “Inefficiency and waste, if not downright peculation and corruption” characterized early American administration (Thatch 1923, 59).

The experience of the Continental Congress aside, politicians have always delegated the basic functions of defense, internal order, revenue collection, regulation, and maintenance of internal networks to federal agencies. The first such agencies were elemental, not because they were first but because they performed tasks necessary for the perpetuation of the state. These tasks were seen as inherently governmental. First among governmental tasks is security, and all modern states have agencies to maintain internal order and defend against military aggression (Mann 1984, 120-24). Not all states monopolize infrastructure but each must have agencies to ensure the free flow of people and goods across roads and rivers because a state, by definition, has a territorial basis; in early America these duties were handled by the Treasury and Post Office. States also engage in revenue collection to finance basic activities. Describing agencies as elemental

¹ The Declaration of Independence blames the British bureaucracy for abusing the colonies: “He [King George] has erected a multitude of new offices and set hither swarms of officers to harass out people and eat out their subsistence.”

does not imply that the night watchman state is the most desirable. Rather, the purpose is to identify what functions are essential to the definition of a state. Agencies that perform these necessary functions are, if not indispensable, at least vital. Often politicians are content to leave these agencies alone as long as they perform their tasks. Without effective elemental agencies, the state will flounder, as the experience of the short-lived Continental Congress suggests.

The first federal Congress in 1789 established departments handling elemental tasks: Treasury, War, State, and the Post Office, each with powers derived from the Constitution. These agencies exercised limited but real autonomy. Far from being merely passive agents of political will, their leaders set agendas and defined organizational structures. Merrill Jensen (1950, 56; Nelson 1982, 751) concludes that Robert Morris, the first Superintendent of Finance, “wielded more power in the United States than any man had yet done.”² The secretaries of Treasury, War, and State, respectively, had independent power bases; by the 1820s they each controlled factional newspapers (Young 1966, 174).³ Agencies under their control grew steadily until the Civil War, when conflict refocused all parts of the state toward the ends of war. Richard John (2003, 51) notes that as agencies “grew larger and more geographically extensive, they assumed new responsibilities, increased their organizational capabilities, and acquired a considerable measure of bureaucratic autonomy...” For John, “autonomy” refers to the power agencies accumulated as the nation grew and as centralization became the norm.⁴

² During the Jeffersonian period from 1801-1829, cabinet heads each had their own relationships with Congress and sometimes worked against each other Young (1966, 174-178).

³ From Emery, “Washington Newspapers,” Columbia Historical Society Records, XXXVII-XXXVIII, 49-50.

⁴ The range of early elemental agencies’ authority was less than that of contemporary agencies because the range and scope of the United States was much smaller then than today (Thatch, 67). The United States federal government had roughly 3000 bureaucrats at the turn of the century, and just under 20000 by 1830 (White 1948, 123). The State

Though their authority increased over time, elemental agencies possessed some autonomy from the beginning. But what if these agencies were not true bureaucracies in the contemporary sense of the term? Influential strains in the historical literature suggest that elemental agencies were not fully bureaucratic, frustrating attempts at comparison with 20th century agencies. For instance Lynn L. Marshall (1967) and Crenson (1975) trace the roots of the modern bureaucracy to the Jacksonian era rather than to the founding. Bureaucracy, in their view, arose because of the need for greater efficiency in handling the demands of the new national economy and the increasingly complicated relations between states, localities and the federal government. The disagreement when bureaucracy came to America stems from a disagreement over definitions. Instead of the birth of administration in general, these scholars identify the inception of a particular species—clientele agencies, or agencies devoted to serving a particular social group.

Though scholars have detected a difference between elemental founding era bureaucracies and the modern administrative state, both are fully bureaucratic. They possess the basic characteristics that Weber's (1946) *locus classicus* identifies as essential for bureaucracies: hierarchy, merit and continuity, rule of law, a sufficient public purse, and rational decision-making founded in expertise (Beetham 1996). To this definition, one might add technology, such as a census or other organized record-keeping. A detailed examination lies beyond the scope of this chapter, but Van Riper (1983) demonstrates that the United States possessed each of these features from its beginning.⁵

department, which had substantial influence, was, by 1800, composed of a miniscule staff by today's standards: the secretary of state, eight clerks, and a messenger boy (White 1948, 136).

⁵ Eugene Kamenka (1989, 5) identifies the key features of bureaucracy in societies as far back as ancient China, India, Egypt, and Babylon.

A more specific objection is that early agencies were not hierarchical. Matthew Crenson (1975, 5) notes that administrative agencies were not fully organized as bureaucracies because “management was a mystery...the operation of federal offices during this period tended to be idiosyncratic.” In fact, the basic structure of the government was hierarchical, with the president at the head, especially after the first Congress explicitly granted the president the power of removal. This structure stood in direct contrast to the committee management system employed by the English and found in the Articles of Confederation.⁶ Management techniques, meanwhile, resembled those in other rational bureaucracies: the shops and military units from which cabinet members hailed.⁷

Finally, Leonard White (1951, 555-56) suggests that early American bureaucracy was not based on principles of merit. He portrays the Jeffersonian civil service as “a solid and unchanged official substructure” in which civil servants “were not infrequently succeeded by their sons...and they grew old in office.” The corruption of the period provided the rationale for Andrew Jackson’s claim in the 1824 campaign that he would tame the bureaucracy for the common man.⁸ Despite the rhetoric, corruption, however real, was not typical nor was it the design of the founders. Since the US was built anew without an aristocratic legacy, the founders staffed the civil service based on competence rather than tenure and peerage—an opportunity not found in European civil service of the

⁶ Van Riper (1983, 479) notes that the US produced a departmental system nearly a century before the British. The new federal government strengthened its hold over officials in localities, too, through issuing standardized instructions, rules, and forms, and developing procedures for central authorities to review officials in states and localities (White 1948, 199-209).

⁷ The US did not develop pure staff agencies (aside from procurement departments in Treasury) until well into the 19th century, however.

⁸ Andrew Jackson, “First Annual Message,” December 8, 1829.

day.⁹ The early United States possessed a small but vibrant administration with the main characteristics of modern bureaucracy. The elemental agencies of the period exercised independent authority because of the nature of their tasks—tasks that gave early bureaucrats like Robert Morris extraordinary power.

The birth of clientele agencies

Clientele agencies, in contrast, gained autonomy because they served the interests of certain groups—their beneficiaries, bureaucrats, and politicians—rather than because of some inherent quality. Such agencies flowered in the 19th century with the advent of a spoils system that turned agencies into explicitly political instruments. It was not until much later in the century, however, as professional civil servants replaced political appointees, that some clientele agencies began to develop autonomy.

The “spoils system” first came into wide use during Andrew Jackson’s presidency; it transformed American bureaucracy by replacing some merit-based positions with partisan loyalists.¹⁰ Jackson replaced slightly less than 20 percent of the civil service in his eight years, but he fired more people than any of his predecessors and almost half of his firing took place in the first 18 months. “Spoils bred bureaucracy,” as the famous saying goes.¹¹ By appointing less experienced people to office, Jacksonian bureaucracy was forced to bureaucratize. Agencies installed rules, procedures, and norms

⁹ Washington (1931, 469) wanted to appoint men with “fitness of character” above all. For a different interpretation, see Nelson (1982, 757-58).

¹⁰ In some respects, the spoils system weakened the administrative expertise gained by tenured civil servants. The new political appointees carried a new kind of expertise, however—a connection to the political constituencies that composed Jackson’s coalition.

¹¹ The view at the time was closer to the opposite—that the growth of bureaucracy brought with it a system of spoils (John 1996).

to make up for a lack of experience. The hope was that people could be replaced and the system would still work efficiently (Marshall 1967, 450-56).

Jacksonian agencies served political clienteles, unlike some contemporary agencies that might serve a particular economic sector with allegiances across party lines. The Post Office, for instance, and, later, the Department of Agriculture lacked autonomy because politicians used them to curry favor with constituents and supporters.¹² In this era of emerging partisanship, politicians agencies were beholden to particular parties in a way that they were not in the weaker partisan era of the 20th century.¹³ This claim need not contradict the argument for the autonomy of early elemental agencies. The bureaucracies of 19th century America were rarely politically distinct from the agenda of the dominant party in national politics after the introduction of the spoils system. Andrew Jackson and his successors distributed offices to party loyalists in exchange for their support, and succeeding presidents followed his example. For instance, Grover Cleveland replaced 40,000 Republican postmasters with Democrats who were then replaced by Republicans four years later when Benjamin Harrison took office (Carpenter 2001, 41). In addition to politicization, the legal and organizational structure of the bureaucracy stymied autonomy in clientele agencies. The government never assumed an extensive regulatory role prior to the Civil War and engaged only in minor revenue collection and the execution of the judgments of federal courts.¹⁴ The spoils system, though, did not infect the major elemental agencies—War, Treasury, State—to the same degree it did

¹² Autonomy was rare in the 19th century, Carpenter (2001, 40) shows, because “agencies were partisan reflections of the presidential administration in power.”

¹³ Silbey (1991) provides the standard account of partisanship in the 19th century.

¹⁴ These were not insignificant matters, as the Whiskey Rebellion of 1794 demonstrated. Administration had to be strengthened to enforce these responsibilities. See White (1948, 419-20; 1954, 512); Corwin (1937).

clientele agencies. These kept on with their business, at least until they underwent a massive expansion during Civil War.

After the Civil War and with the gradual professionalization of the civil service, clientele agencies became less partisan and more focused on serving particular social or economic groups. Richard L. Schott describes the shift from the elemental agencies of the founding to the clientele agencies of the 19th and 20th century: “whereas earlier federal departments had been formed around specialized governmental functions (foreign affairs, war, finance, and the like), the new departments of the period—Agriculture, Labor, and Commerce—were devoted to the interests and aspirations of particular economic groups.”¹⁵ To this description I add a distinction between clientele agencies that are thoroughly politicized by party and those that serve particular economic or social groups. To better understand this distinction, consider the Department of Agriculture, a progenitor of the latter.

Agriculture’s functions grew out of the Interior Department’s patent office, established in 1836, but it was not until 1862 that the Department of Agriculture was formally created under pressure from the farm lobby (Baker 1963; Keller 1977). President Lincoln, among others, supported the idea of a new department and in doing so won the support of the crucial farm vote. On one hand, the department was part of the larger story of the development of the American state in the 19th century as a response to improving technology and the loss of the frontier. Economic and political incentives led the Republican Party to press for a host of policies in the name of “development”: the gold standard, the tariff, and the national market (Bensel 1984; Bensel 1990). The original goals of the USDA were modest enough: “to acquire and to diffuse among the

¹⁵ Quoted in Wilson (1999).

people of the United States useful information on subjects connected with agriculture” as well as to distribute seeds and plants.¹⁶

On the other hand, the Department of Agriculture is the seminal example of a clientele bureaucracy. Soon after its creation, buoyed by politicians eager to establish a connection with the farm lobby as well as by ambitious and creative bureaucrats, the department grew rapidly and its duties became more and more diffuse. By 1909, it included divisions of animal industry, plant industry, chemistry, soils, entomology, a weather bureau, and a bureau of statistics. The department also oversaw a network of agricultural experiment stations and, unofficially, land grant colleges trained much of the department’s workforce. Coalitions of farmers, experts trained in colleges or in state extension offices, and representatives in Washington composed a network with a shared interest in advancing agriculture. This network, as Carpenter (2001) shows, was the basis for the burgeoning reputation of the USDA which developed an unprecedented degree of bureaucratic autonomy. The advent of a mature profession provides agencies with sufficient resources to innovate and, eventually, adapt to solve new problems. For clientele agencies, adaptation can lead to a good reputation and, eventually, autonomous behavior.

The symbiotic relationship between agricultural interests and the agency benefited both spheres: agricultural experts worked with farmers in the state and the farm lobby in Washington to advance legislation in support of agriculture. The department’s growing reputation for advancing agriculture’s interests led to autonomy from politicians. USDA leaders launched enduring programs that did not succumb to the norms of distributional

¹⁶ Act of May 5, 1862, 12 Stat. L., 387.

politics and congressional control.¹⁷ Members of Congress claimed that these new departments would serve the common good but, with the expansion of the committee system, clientele agencies were more directly accountable to the members of Congress whose constituencies took special interest in their work.

Following Agriculture's lead, other interests demanded agencies of their own. In 1869, Congress established the Bureau (later Department) of Education. Unions gained a small Bureau of Labor in the Department of Interior in 1884 which became a separate cabinet department in 1913.¹⁸ The department's original legal definition is still cited today: "to foster, promote, and develop the welfare of wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."¹⁹ In addition, business gained a foothold with the establishment of the Department of Commerce in 1913. Soon after, the agency helped to create the Chamber of Commerce, further linking the bureaucracy to networks in the business community.

The Bureau of Pensions, modestly begun in 1833, became one of the largest government bureaus after the Civil War. It was considered both sensible and just to provide some benefit to war veterans—they had earned it after all—but once veterans become a self-conscious and active constituency, election-minded politicians found it to their advantage to expand policies and organizational support benefiting veterans.²⁰ After initial legislative action following the Civil War, "Veterans became self-consciously

¹⁷ Major enduring USDA innovations include pharmaceutical regulation, agricultural extension, and land transfers (Carpenter 2001, 255-289). These achievements were built from the center of the department using connections to multiple networks among the public.

¹⁸ The Knights of Labor pressed for a Department of Labor in 1888 that was expanded to become the Department Of Commerce and Labor in 1903. After protest by the American Federation of labor the two departments were separated.

¹⁹ US Code. Mar. 4, 1913, ch. 141, Sec. 1, 37 Stat. 736;

²⁰ Predecessor agencies include the Military Bounty Lands and Pension Branch, War Department (1810-15) and the Pension Bureau, War Department (1815-33).

organized and mobilized to demand ever improved benefits” (Skocpol 1992, 59).²¹ The Pension Act of 1890 made almost every northern Civil War Veteran and his dependents eligible for aid, and in 1891 the Pension Office spent 34 percent of the federal budget (Keller 1977, 311-312). The symbiotic relationship between social networks, government agencies, and politicians was sealed by the end of the 19th century. Clientele agencies were to be enduring features of the political landscape because they benefited three powerful groups: agencies grew because they served a purpose; social groups gained a champion in government; and politicians gained a connection to key constituencies.

20th Century administration

The growth of government in the 20th century—in both size and purpose—added to the complexity of existing elemental and clientele agencies. Elemental agencies grew along with the macro-changes in the larger country—territorial additions, demographic changes, economic growth, and crises. Clientele agencies did not develop in a parallel fashion and instead grew exponentially in response to the needs and power of the political constituencies they served. Formerly elemental agencies took on clientele functions. To take one example, the Department of Defense began to serve clienteles in industry with the rise of what became known as the military industrial complex. A great degree of variation that has occupied political scientists exists within the clientele category, but it is important to attend to the great differences between clientele and elemental functions even as the types of predominately clientele agencies become more numerous.

²¹ Wilson (1999, 48-49) outlines the logic of its growth: “a subsidy was initially provided, because it was either popular or unnoticed, to a group that was powerfully benefited and had few or disorganized opponents; the beneficiaries were organized to supervise the administration and ensure the funding of the program; the law authorizing the program, first passed because it seemed the right thing to do, was left intact or even expanded because politically it became the only thing to do. A benefit once bestowed cannot easily be withdrawn.”

By the 20th century, the routes to bureaucratic autonomy were more varied than ever before. Some agencies were never autonomous and existed perpetually as agents of their political superiors. Others exercised autonomy, including Agriculture and the Post Office, through a reputation for fulfilling a need. Still others, including War or the early (and less differentiated) Treasury, gained autonomy because of the elemental nature of their tasks. Growing administrative complexity in the 20th century added a third route to autonomy: protection behind layers of organization and procedure that gave some agencies a free hand.²²

In 1887, Woodrow Wilson compared the American bureaucracy to a “lusty child” that “has expanded in nature and grown great in stature, but has also become awkward in movement” (Wilson 1887, 203).²³ The metaphor had only become more powerful by 1937 when the Brownlow Committee characterized American administration as a farm that grew haphazardly: a new farmhouse here, a chicken coop there, until the land was covered with only tangentially related enterprises. Growth occurred not just in size but in scope. The Democratic party of Cleveland, Wilson, and Roosevelt greatly expanded the government’s role in economic regulation because electoral competition required it. “In essence, the Democrats faced a difficult choice between their long-term ideological commitments and short-term electoral opportunities, between legislating the deeply held

²² Both functional and political reasons drove the expansion of administration into new spheres. The increasing complexity of modern life demanded more subtle routines and procedures to accomplish both new tasks and those that might have been simpler in earlier times. Expanding the reach and complexity of government activity made sense for politicians who added agency after agency to target clienteles far narrower than, for instance, American agriculture, in order to win political support and dependence.

²³ Dodd and Schott (1979, 25) note that: “The introduction of civil service reform coincided historically with the beginning of substantial growth in the number of federal civil servants, a growth that itself reflected an expansion of federal executive functions.” The number of civilian employees in the executive branch, estimated at 100,00 in 1881, had by 1900 more than doubled and by 1910 had nearly doubled again (US Census 1965, 710). Although the percentage of officials covered under merit procedures during the early years of the merit system was small, by 1900 roughly fifty percent of federal civilian employers fell under its umbrella. A major byproduct of the introduction of the merit system, as Dodd and Schott (1979) among others note, has been the creation of an institution, an administrative “estate,” that is distinct from both Congress and the president.

regulatory aspirations of their agrarian party base, or abandoning those goals for the policy preferences of pivotal voting blocs whose support was deemed crucial to the consolidation of party power”(James 2000, 3). Greater regulation addressed the burgeoning social problems of contemporary America and had the added advantage of winning political support for politicians. Social needs that in earlier times might have gone unmet or been addressed in piecemeal fashion became problems for the federal government as the public’s expectations about the government’s responsibility grew over time.

The crisis of the great depression, and then World War II, turned a static, frugal, parsimonious Congress into the spending machine we recognize today. Faced with high unemployment, disorganized industry, systems of social insurance, and cities going bankrupt, the first order of business was a strengthened federal revenue system. Federal revenues grew from 2.5 percent of GNP in 1929 to 19 percent in 1954; the level remains roughly the same today. Entitlements expanded, followed by grants-in-aid and tax cuts. The postwar federal budget was roughly as follows: 20 percent for military, 20 percent for debt, 50 percent for entitlements, and 10 percent for the rest of government. Along with an appetite for spending, government expanded its authority into new areas, notably the economic sphere.

Historians have interpreted the emergence of business regulation in the 20th century in a variety of ways: as a victory for the people over the “money power” (Beard 1922) as well as an attempt by corporations to rationalize competition (Sklar 1988). The advent of the corporation brought rules to the marketplace that benefited both the consumer seeking fairness and the capitalist seeking predictability (Glickman 2001).

Political incentives provide a third source of support for expanded regulation. Clientele agencies were a two-way instrument for government to communicate with the public. Bureaucracies linked constituencies to politicians who could deliver electoral benefits (as well as impose costs) through these agencies. The agencies, in turn, informed politicians about the preferences and potential needs of citizens. Constituencies cooperated because they were better off with an agency focused on their needs. The mutually beneficial relationship between constituents, agencies, and politicians holds for all clientele agencies, not just economic ones. For instance, the Department of Education was sold explicitly as a way of giving a voice to teachers, school administrators and, presumably, citizens concerned about education. During the campaign to create the agency, then Vice-President Walter Mondale said that America is worse off because education “is not at that Cabinet table speaking directly to the President” (Arnold 1998, 319).²⁴ Education, in this case, implied the groups representing education that would be instrumental in shaping the Department’s functions. There is no elemental (or natural) function for a federal education agency, especially in a republic that invests states and localities with substantial control over education policy. The first major task for the Department of Education was to define its role and functions; it largely failed, however, to gain a reputation for fulfilling a public need and remains one of the least autonomous agencies in government, shifting its policies to suit the dominant political party.

The political incentives to create and influence clientele agencies have received a great deal of scholarly attention. In particular, the recent history of the Bureau of the Budget has been used to demonstrate the ill effects of incentives for presidents to exercise

²⁴ Other agencies advocated for a particular interest or cause, including the National Recovery Administration, Tennessee Valley Authority, and later, the Federal Communications Commission and Federal Maritime Commission. The discussion of FEMA in chapter 5 details the evolution of one such clientele agency.

undue control over agencies (Dickinson 1997). Specifically, at least since the 1970 reorganization that incorporated the Bureau of the Budget into the Office of Management and Budget, the agency's performance has been "politicized." The number of political appointees has increased, and the agency has generally been seen as more responsive to the political preferences of presidents. Thus, a budgetary agency that in theory might be elemental to the perpetuation of the state has become politicized and brought into the service of presidents. In the late 20th and early 21st century, even agencies with elemental functions have become politicized. Despite proliferation of authorities and of the range of bureaucratic power, bureaucratic autonomy has become more difficult for core federal agencies.

The terrain of the administrative state

I identify two main features of the landscape of the administrative state, elemental and clientele agencies, both of which have roots in early America. In the 20th century, the landscape grew much more varied. Some clientele agencies developed autonomy from the president and Congress by developing a reputation for fulfilling a need through a connection with a social group. Other clientele agencies never developed a reputation and remained closely tied to the policies of the dominant national party. While progressive era clientele agencies tended to gain power from their connections with social movements or economic interests, some post World War II agencies benefited from connections to increasingly powerful professions. I examine one such agency, the Federal Emergency Management Agency, in chapter 5. Overall, the professionalization of the civil service—loosening the reins of patronage—increased bureaucratic autonomy across the board in

the 20th century. With time, agencies multiplied and overlapped and targeted increasingly narrow constituencies, complicating their connections to the public, politicians, and each other. Clearly, bureaucratic autonomy serves political and electoral interests, but it also serves larger public purposes. Politicians granted autonomy to the earliest agencies in order to promote innovation in a new country, permitting agencies to act in particular cases for which elected officials had neither the time nor, increasingly, the expertise. In addition, with the rise of clientele agencies, autonomy grew to serve democratic accountability in a diverse country by connecting federal agencies with vibrant social groups. Far from being merely undemocratic, bureaucratic autonomy contributes to innovation and responsiveness to the public.

Nevertheless, the history of the administrative state raises questions about democratic accountability. Understanding how 20th and 21st century agencies function requires understanding the sequence of events that produced them. In Europe, bureaucratic institutions were long established—and long autonomous—before the creation of democratic institutions. Before democracy could take root there, it had to explicitly address the role of semi-sovereign agencies and a true class of civil servants. In the United States only a few bureaucracies are part of the Constitution and the rest grew after democratic institutions had matured (Nelson 774). Those agencies mentioned in the Constitution and necessary to build a state—War and Treasury—possess some authority outside of democratic institutions because they are elemental to the state.²⁵ The vast majority of agencies, though, are predominately clientele agencies. They may be powerful but they are not essential to the state nor do they have tasks that require secrecy

²⁵ The description of relatively autonomous executive agencies parallels Harvey C. Mansfield Jr.'s (1989) claim that the democratic executive possesses inherent authority, especially when the state confronts urgent necessity, that remains outside the bounds of democratic politics.

and haste; they have to look to popular support for legitimacy, not to the Constitution or to their functions. The final chapter of this study asks whether elemental or clientele agencies are more accountable. For now it is sufficient to hold out an entrepreneurial and innovative bureaucracy devoted to the principles of constitutionalism as the ideal, though this vision is not without danger. An innovative and autonomous bureaucracy has the power to engage in demagoguery as vigorously as the president and as other elected officials.

4

Transformation and decline in emergency management agencies

The terrorist attacks of September 11, 2001 led Congress and the president to undertake one of the most ambitious reorganizations in American history to respond to the now undeniable threat of domestic terrorism.¹ The creation of the Department of Homeland Security sparked dramatic changes in several agencies included in the new department: the Customs and Border Patrol agencies were consolidated and then separated, the Coast Guard began building a deep water capability, and the FBI shifted resources from drug crimes to counterterrorism.² Some political actors intended for the Federal Emergency Management Agency to undergo a similar overhaul.³ After the creation of the DHS, the White House and FEMA's political leadership directed a policy team to develop an entirely new way of responding to disasters that would make counterterrorism a priority and lead to greater investment in programs to combat chemical, nuclear, and biological weapons.⁴ But the political leadership reversed course, and FEMA remained much the same even as other agencies in the department were overhauled. What steered FEMA against attempts to alter its structure and mission? The

¹ This chapter draws on interviews conducted by Patrick Roberts in person, by telephone, and via e-mail correspondence with 23 current or former upper-level FEMA employees as well as with others knowledgeable about the agency and the emergency management profession. Quotations for which no citation is provided are taken from these sources. The record of interviews are in the files of the author.

² The FBI hired 900 new agents during 2002, joining the 7,000 already in the agency. And it reassigned 518 agents from the anti-drug crimes division to the Counterterrorism Division. Before the terrorist attacks, only 153 agents were assigned to counterterrorism. See Carl Cameron, "FBI Reorganization Gets Underway," FOX News, 5/29/02.

³ Numerous studies advocated a larger role for FEMA in combating terrorism. For example, see Frank Cilluffo, "Statement to the Subcommittee on National Security, International Affairs, and Criminal Justice of the US House Committee on Government Reform and Oversight," October 2, 1998. Also see the reports of the Hart-Rudman Commission, <<http://www.nssg.gov/>>.

⁴ FEMA was an independent executive branch agency until it was absorbed into the DHS on March 1, 2003.

agency had developed a reputation as an effective disaster agency, not as a counterterrorism one. The agency's reputation among disaster-plagued communities and among politicians for effectively addressing natural disasters gave its leaders enormous though not absolute leverage in defining their mission and core tasks, even when the national agenda emphasized terrorism.

The current arsenal of explanations fails to account for FEMA's strength. The dominant understanding of bureaucracy assumes that agencies merely respond to the rules set out for them by the president or Congress. This understanding rests on theories of delegation—between the president, Congress as a whole, congressional committees, and agencies—which assume that a principal (the “chief”) and an agent or subordinate have divergent goals. For example, presidents and members of Congress might seek reelection, and agencies might seek budget maximization or independence (Bendor, Glazer, and Hammond 2001; Epstein and O'Halloran 1999; Kernell 2001; Kiewiet and McCubbins 1991). The principal, usually the president or Congress, crafts rules to which the agent, usually a federal agency, must respond. From this perspective, the most important factors in the policy process are the preferences of the majority party or median voter in a chamber, which may choose to delegate to a congressional committee in a given policy area, which then delegates to an agency.

For all it illuminates about congressional decision-making, this scholarship does not account for the degree to which agencies are political actors in their own right. Powerful agencies are able not only to alter implementation of laws but to shape the preferences of politicians and to structure their own missions when, as frequently happens, legislative authority is ambiguous. This analysis shows that even when

Congress legislates on a particular issue and does not explicitly delegate an agency with a strong reputation has a great deal of discretion—more than theories of delegation typically allow. These theories explain bureaucratic politics when agencies are weak, but the case of FEMA presents a counter-example.

Standard models ascribe bureaucratic power either to the structural characteristics of an agency or to a blurring of the lines between the interests of political appointees charged with setting policy and the interests of career civil servants. In these models characteristics of bureaucratic power include an agency's size, ties to interest groups and congressional committees (iron triangles), information asymmetries, and political appointees who "marry the natives" and adopt the preferences of career civil servants, and, finally, self-interested behavior such as shirking or budget maximization (Golden 2000b; Heclo 1977; Meier 1993; Meier, Wrinkle, and Polinard 1995; Niskanen 1971; Wilson 1977). FEMA, however, is not a particularly large agency, with only about 3,000 employees, nor are its core tasks top secret and resistant to routine political meddling, like those of the intelligence agencies. FEMA lacks powerful, organized interest groups of the kind that support the Environmental Protection Agency and it lacks the Department of Defense's powerful connections to private industry.

Despite these apparent disadvantages, in recent years FEMA has exercised a great deal of bureaucratic power, which can be understood as a kind of autonomy. For bureaucracies, autonomy does not function in the strict philosophic sense of the term. No agency is entirely self-ruling since each operates under the constraints presented by environmental conditions and organizational structure. Instead, most institutional literature employs autonomy as a description of the relative independence of an agency

from its political superiors.⁵ Herbert Emmerich (1971, 17) captured the essence of autonomy when he noted in a classic study that “[t]here is a persistent, universal drive in the executive establishment for freedom from managerial control and policy direction.” Autonomy is simply the desire and ability of an agency to implement its own ideas. More autonomous agencies are able to innovate and shape policy direction on their own while less autonomous agencies are more dependent on their political superiors.

In the case of FEMA, autonomy allowed the agency to undergo a remarkable turnaround after a massive reorganization begun in 1993 in which the agency reorganized its missions around natural disaster preparation and response as well as around the concept of all hazards, essentially a common approach to all disasters. Before 1993 the agency attempted to act independently, by inserting itself into national security affairs for instance, but time and time again it was rebuffed and embarrassed because of its own ineptitude or scandal. In the pre-reorganization period, the agency reflected the same political consensus that constructed it in 1979 out of an amalgam of disaster agencies. The result was truly “flawed by design,” as Zegart (1999) said of the agencies created by the 1947 National Security Act, since various parts often worked at cross purposes. Not until the 1993 reorganization did FEMA develop a sustained agency perspective that at key points was distinct from the position of influential political majorities in Congress or in the White House over which the agency prevailed in crucial instances.

The agency’s process of defining its organizing concepts, missions, and tasks on its own reflects its autonomy; the directions given to FEMA by Congress and the

⁵ Barnett and Finnemore (2004, 11) define autonomy as multiple periods in which an institution acts independently, though not necessarily defiantly, of its political superiors. Carpenter (2001, 17) notes that autonomy occurs when agencies “can bring their political legitimacy to bear upon the very laws that give them power.” These laws, though, still constrain the agency. Also see Khademian (1996).

president did not change substantially from 1979 through the 1990s, except that politicians began to sour on the agency and a growing chorus demanded its abolition or radical shrinkage. FEMA first gained the ability to shape its missions and tasks during its reorganization and continued to exercise autonomy to the present day, though oftentimes its autonomy did not contradict the immediate interests and preferences of politicians. The agency simply knew how to pursue politicians' interests in reelection and in effective governmental action through disaster preparation and response. Aside from the more subtle and general exercises of autonomy, FEMA demonstrated its independence during two crucial periods when congressional attention focused directly on the agency: the 1993 reorganization and following the terrorist attacks of 2001. During its 1993 reorganization, the agency's leadership shrewdly reinterpreted statutes to give it broad authority for preparation for as well as response to all kinds of disasters.⁶ At the same time pivotal segments of Congress wanted to either abolish the agency or shift its responsibility toward human caused or technological disasters.⁷ Instead, the agency reoriented its mission around a new organizing concept that emphasized preparation and quick response to all kinds of natural disasters, a formula that built the agency's reputation and contributed to its remarkable stability. Following the attacks of 2001,

⁶ FEMA mostly intervened in natural disasters, but it did play some role in national security policy areas such as terrorism, civil defense, and civil disturbances, including events from the 1979 Mariel Boatlift of Cuban refugees to security for the Olympic games. There has been a complicated legal debate throughout the history of emergency management agencies over the degree to which those agencies were either required to or able to address these policy areas. The general consensus is that FEMA in particular was able to address hazards of all kinds on American soil, including terrorism, nuclear attack and civil disturbances. The Federal Civil Defense Act of 1950 (repealed in 1994), for example, gave priority to "attack-related civil defense" over natural disasters. Even through 9-11 there was some confusion in the responsibilities of FEMA and the FBI and law enforcement agencies in the event of an attack. Both bore some responsibility, but the FBI asserted that it would be the lead on-site agency until the Attorney General determined that the immediate threat had subsided. See Keith Bea, "Federal Disaster Policies after Terrorists Strike: Issues and Options for Congress," *CRS Report to Congress*, Washington, DC: Congressional Research Service, 10/22/02. See also John Ashcroft, "Letter to Joseph Allbaugh, FEMA Director," 8/2/01. For a discussion of FEMA's authority in national security and terrorism see the unpublished legal appendix to NAPA, 1993.

⁷ A 1993 sense of Congress resolution, discussed in the narrative, asks FEMA to focus resources on human caused or technological disasters P.L. 103-160, 107 Stat. 1855-56. November 30, 1993.

when political and budgetary pressures led organizations across the board to redefine themselves as homeland security agencies, FEMA retained its focus on all hazards and natural disasters and at least initially remained remarkably stable compared to other agencies included in the Department of Homeland Security. The agency had developed such a good reputation for effective disaster relief and for working with states and localities that the creators of the new department wanted to include FEMA, despite some recommendations to the contrary, because the disaster agency would lend credibility to the entire department.⁸

A more determinist account might stress how the agency's mission evolved in response to the demands of its constituents and the logic of its central tasks.⁹ Public expectations about the growing responsibility of the federal government evolved over time, but throughout the 1980s and 90s, at least, people wanted and eventually demanded disaster assistance from government. FEMA was unable to effectively provide such assistance in its early years leading editorial writers to mock the agency and local officials to blame it for a chain of ineffective and inefficient preparation and response at all levels of government. In short, there was nothing necessary about FEMA's transformation from a poorly performing federal backwater to one of the most popular "brand name" agencies in government even though the agency was constrained by public expectations about the responsibilities of the federal government.

Three main ingredients contributed to autonomy: an administrative politician who connected the agency's tasks to the long term interest of politicians, a mature emergency

⁸ Personal interview with a White House official responsible, in part, for drafting the original proposal for a new Department, 10/2002. Supported by Witt's accounts of conversations with members of Congress. James Lee Witt, Personal Interview, Washington, DC, April 15, 2004.

⁹ It is difficult to know whether demand always exists, waiting to be tapped, or whether demand can be created out of whole cloth.

management profession, and an adaptable organizing concept, “all hazards,” which provided the basis for the development of a reputation. As this account demonstrates, these three features combined to focus the agency’s missions around tasks it could perform well and tasks that prompted politicians to recognize the agency’s legitimacy as well as its utility to their reelection interests.¹⁰

The development of an adaptable organizing concept was crucial in creating clear expectations about the agency’s performance and allowing it to be able to meet or surpass expectations and, in doing so, developing a reputation. During the mid 1990’s FEMA’s mission coalesced around the all hazards approach, a term that has become a mantra in emergency management. Most emergency management agencies today place all hazards at the core of their mission, which means that they emphasize programs that theoretically can be used to respond to all kinds of disasters—natural, technological, and terrorist and national security—rather than programs specific to one kind of disaster. Throughout their history emergency management agencies have been responsible for all three kinds of hazards, and, while the term is *all hazards*, during the 1990s natural disasters became the main focus of the agency. It is easy to see why the all hazards approach leads to a focus on natural disasters: terrorism, riots, and even chemical spills and nuclear accidents are rare and highly technical events requiring specialized preparation, whereas the course and effects of many natural disasters are predictable and the skills required, such as warning, evacuation, and damage assessment, are transferable across hazards. Over time the emergency management culture coalesced around the all hazards approach, which

¹⁰ Carpenter (2001, 17) claims that autonomy occurs when agencies “can bring their political legitimacy to bear upon the very laws that give them power.”

allowed FEMA to evolve from an agency with many conflicting missions to one with a single adaptable concept that helped organize diverse missions.

The all hazards approach was elevated to a governing principle by an administrative politician, James Lee Witt, who was the agency's director from 1993-2001. An administrative politician is similar to the concept of a bureaucratic entrepreneur, who is "public sector equivalent of the private sector entrepreneur" (Mintrom 2000b; Schneider, Teske, and Mintrom 1995, 3). An entrepreneur perceives an opportunity for policy change and brings new innovations to the political market. Witt, however, did more than bring a new product to market. Instead, he worked to connect the activities of his agency to the long term reelection interests of politicians by restructuring the agency and liberally reinterpreting statutes to gain authority where he thought the agency most needed it. He assembled the foundational element of reputation—a clear organizing concept—and pushed through the necessary organizational reforms. A group of people rather than an individual may be responsible for this synthesis, but much of the credit redounds to the administrative politician.

Witt is widely credited with turning FEMA from a bureaucratic backwater into a brand name. The agency went from being invisible to the media at its founding to being heavily criticized and then, under Witt, to receiving praise. Witt's turnaround was not an unvarnished success, however. The agency's rise in popularity corresponded with an increase in federal disaster declarations and disaster funds to the states, so part of his success was due to greater federal spending. Witt was also quite lucky that no catastrophic disasters struck during his eight-year term. Furthermore, Witt's deputies and,

consequently, the emergency management profession deserve as much of the credit for the turnaround as Witt himself.

Still, his behavior is instructive. The way in which Witt forged bonds with elected politicians was strikingly different from how progressive era bureaucratic entrepreneurs related to political actors. During the early 20th century, maverick agency leaders like Gifford Pinchot and Harvey Wiley staked out their independence from politicians and developed widespread support for their policies.¹¹ Administrative politicians in FEMA, however, enhanced their reputation through close relationships with politicians. This is the crucial difference between the progressive maverick and the modern administrative figure—Witt did not stake out a position independent of politicians as much as he supported their interests. When he first became FEMA director in 1993, he clashed with some members of Congress who wanted to disband the agency, but he eventually persuaded them that he could improve FEMA’s response to natural disasters so that the public would have an improved view of the agency and of the federal government in general. Instead of developing his own constituency in opposition to political interests, Witt focused the mission of FEMA so that the agency accomplished manageable core tasks, responding to natural disasters effectively.

President Clinton and members of Congress whose districts were struck by disasters were quite happy to take credit for FEMA’s quick response (though not shy to blame the agency for failures during the 1980s and early 1990s). Witt recognized the “electoral connection” between the agency’s tasks and politicians’ ultimate interest—reelection—when during congressional testimony he said that “disasters are political

¹¹ Pinchot and Wiley both courted symbolically important politicians just like the courted other symbolically important social leaders. Convincing politicians that their agency’s success was crucial to electoral ambitions was less important to Pinchot and Wiley’s project, however, than it was to Witt.

events” (Mayhew 1974).¹² He recognized that his power was ultimately located in the agency’s ability to support the interests of politicians and, sometimes, to anticipate those interests better than politicians could do on their own.

Witt’s work and ultimately the agency’s reputation were supported by knowledge, criticism, and training from a maturing emergency management profession. During the 1980s, civil defense associations and conferences began to morph into emergency management groups. Universities began to offer degree programs in emergency management, later in cooperation with FEMA. By 1993, the National Academy of Public Administration recognized emergency management as a specialty. These specialists produced an important report providing a blueprint for FEMA’s turnaround that Witt and others followed. Among other things, the report recommended deemphasizing the agency’s national security role, removing the “stovepipes” that separated various parts of the agency, and adopting an all hazards approach (NAPA 1993). Many of Witt’s deputies were trained in emergency management, and the profession eased communication between federal, state and local offices of emergency management by providing a uniform vocabulary with which to talk about disasters.

FEMA’s reorganization was a singular and exceptional event, the fortunate confluence of an adaptable organizing concept, an exceptionally talented leader, a maturing profession, and a crisis of confidence that opened the door for radical change. The agency’s autonomy was sustained and institutionalized, however, not through these features but through its burgeoning reputation as an effective disaster agency. This explanation both builds upon and departs from the most thorough recent attempt to explain bureaucratic autonomy by Daniel Carpenter (2001b, 364-65) who locates the

¹² Testimony to U.S. Senate, April 30, 1996.

source of agency power in reputation. Carpenter defines reputation as an “evolving belief” among the politicians and the public—and especially organized interests—in the ability of an agency to anticipate and solve problems. Reputation may adhere to a single agency, a small set of agencies or, in part, to a bureaucratic entrepreneur who leads an agency.¹³ Carpenter locates the roots of bureaucratic autonomy, essentially agencies’ sustained discretion, in a strong reputation supported by innovative bureaucratic actors and organized social groups or “coalitions of esteem” (Carpenter 2000, 122).¹⁴

Progressive era expansion of the Post Office, for example, was supported by moral reform groups including prohibitionists. These networks outlasted politicians’ attempts to co-opt them, since they spanned the usual partisan and class boundaries. Today, however, the rich associational life of the progressive era has given way to pervasive individualism so that America is not the nation of joiners it once was (Putnam 2000). Powerful interest groups located in Washington largely replaced the more organic local associations; belonging to a modern interest group requires no more commitment than writing a check.

This account defines reputation in much the same way as Carpenter: it is the development of a belief among a segment of the public, and then among politicians, in an agency’s ability to anticipate and address public needs. FEMA’s reputation was particularly strong in disaster prone communities and among these communities’ political representatives, though eventually the positive reputation grew beyond this

¹³ From Carpenter (2001, 13, 364-65). The concepts of reputation and autonomy are developed in Carpenter (2000, 2001). The sociological literature has made attempts to understand the role of ideas and evolving beliefs in organizations, including Finnemore and Sikkink (1998); DiMaggio and Powell (1983). In political science, the comparative politics field has had a resurgence of scholarship on ideas in politics, including Goldstein (1993), while in public administration Goodsell (2005) has examined how the idea of a “mission mystique” shapes agencies.

¹⁴ Carpenter’s work defines bureaucratic power, and specifically “autonomy,” as those occasions in which “elected authorities see it as in their interest to either (1) defer to an agency’s wishes for new policy or (2) grant a wide range of discretion to an administrative agency over an extended period of time” (Carpenter 2000, 124). My own concern is less with the creation of new programs—after all, much of the radical policymaking of the contemporary era involves eliminating programs—than with an agency’s ability to define its missions and core tasks.

constituency.¹⁵ Where this account differs is in the explanation for the manner in which a modern agency develops a reputation. Contemporary agencies can develop a reputation with a connection to a mature profession, which helps to compensate for the support and information once provided by progressive era associations. In addition, modern agencies are required to perform increasingly complex technical tasks, creating a demand for expertise that can be met by a professional culture, with its knowledge, training, and own set of academic and political associations.

Reputation is useful in understanding how contemporary agencies gain power over time. FEMA was able to resist the commands of its political principals because the agency had developed a reputation under the all hazards heading as an effective disaster agency, not as a counterterrorism one. The clearest example of such resistance followed the attacks of 2001, but the agency also resisted pressure to devote more resources toward terrorism following the Oklahoma City bombing and other incidents. The agency's reputation among the disaster-prone public and among politicians for effectively addressing natural disasters gave its leaders enormous leverage in defining their mission and core tasks, even when the national agenda emphasized terrorism. Reputation is a stronger and more complex force than one might think—before the 1990s, FEMA and its predecessors lacked a good reputation and the agency was at the mercy of politicians and the changing political agenda.

In Carpenter's account, an agency's reputation is buoyed by a connection to private associations, often representative of larger social or moral movements. Agencies often had better connections to these movements than politicians did, in part because the

¹⁵ Witt claims that after FEMA gained notoriety some members of Congress who had not struggled with disasters asked him whether the agency might take on responsibility for other tasks beyond its traditional mission.

associations' goals did not correspond to the aims of a single party. An agency gained autonomy when politicians believed that its responsiveness to social movements gave it the foresight to create new programs that anticipated the needs of the public better than politicians could do through legislation (2000, 124). The history of FEMA suggests that contemporary agencies can respond to public needs not through social movements but through a combination of state and local offices, the institutions and knowledge provided by a profession, and a recognizable and adaptable organizing concept tying all of these together.

Documenting reputation

I measure reputation through archival research, interviews, and a graph of the number of major newspaper editorials that mention FEMA in a positive tone compared with the number that mention FEMA in a negative tone (see figure 2). Reputation is a measure of appearance rather than a direct measure of performance, though I mention the agency's improved response to disasters after the 1993 reorganization and include a chart listing the number of annual presidential disaster declarations (figure 3). After a long history of bureaucratic failure, FEMA turned its image around following a 1993 reorganization. At that time, James Lee Witt, a bureaucratic entrepreneur, drew on the resources of the emergency management profession to install the all hazards organizing concept and deemphasize the agency's national security functions.¹⁶ I confirm the emergence of the concept of all hazards through interviews with 23 current or former

¹⁶ See figure 5.

upper-level FEMA employees or emergency managers. All but one of these mentioned the all hazards approach without my prompting when discussing the agency's mission.¹⁷

The reorganization of FEMA in 1993 resulted in a profoundly improved reputation among disaster-prone communities and their political representatives at all levels of government and, ultimately, in a remarkably powerful and stable agency. For most of their history, FEMA and its predecessors responded to pressures from politicians and the political agenda. Civil defense agencies, though originally tasked with natural disasters preparedness, failed to develop a reputation and were at the mercy of politicians who oriented their missions toward civil defense. FEMA, too, languished in its early years, but during the 1990s it went from being labeled a "federal turkey farm" by a congressional committee to being hailed as the most popular agency in the federal government by President Clinton. This turnaround allowed the agency to resist pressure to change its mission and core tasks to reflect new political priorities. FEMA's newfound bureaucratic power stemmed from the development of a stable reputation among the people most sensitive to disasters, and this chapter explores how that reputation was formed by the construction of a clear organizing concept through the emergence of an administrative politician and an emergency management profession.

Civil Defense and Disaster Policy during the Cold War

After World War II, emergency preparedness included a commitment to addressing both natural disasters and nuclear attack, but, as the Cold War intensified, the threat of nuclear attack quickly became the primary focus of preparedness agencies. Could the same thing have happened to the FEMA after the terrorist attacks of September

¹⁷ See appendix A for a more detailed description of interview subjects.

11? The history of federal emergency preparedness organizations in America suggests that the answer is yes. Civil defense programs arose in the 1950s under conditions similar to those following September 11—a new sense of vulnerability, the expectation of a federal organizational response after the crisis, the need to minimize casualties in the event of an attack and the need to boost the public’s morale for a long struggle against a protean enemy.

The earliest emergency preparedness agencies were created with an all hazards approach to disasters in mind, even though they did not use the term. In 1948, Russell Hopley, the director of the Office of Civil Defense Preparedness, submitted a report to Secretary of Defense James Forrestal in which Hopley announced the creation of a comprehensive civil defense agency, “a peacetime organization which should be used in natural disasters even though it may never have to be used for war.”¹⁸ In the “Hopley Report” policymakers realized that civil defense programs could be used for all kinds of disasters. President Eisenhower issued the first presidential declaration of a major disaster in 1953 to help four counties in Georgia recover from tornado damage. This was made possible by the Disaster Relief Act of 1950, which replaced ad hoc aid packages with general law governing disaster relief (Birkland 1997, 49-50).

¹⁸ Russell J. Hopley, “Civil Defense for National Security,” a Report to the Secretary of Defense by the Office of Civil Defense Planning (1 October 1948). Quoted in Jerry Conley, “The Role of the U.S. Military in Domestic Emergency Management: The Past, Present and Future,” Institute for Crisis, Disaster, and Risk Management Newsletter, George Washington University, 3:4, January 2003. Also see Memorandum, Forrestal to Truman, November 8, 1948, PHST, OF, Box 1651, Office of Civil Defense Planning Folder; “Progress Report on Civil Defense Planning Under the N.S.R. B. March 3, 1949-March 3, 1950,” NA, NSRB, RG-304, Box 94, Folder E4-12. For studies of early civil defense programs, see Nehemiah Jordan, U.S. Civil Defense before 1950: The Roots of Public Law 920, Study S-212 (Washington, DC: Institute for Defense Analyses Economic and Political Studies Division, May 1966). Various civil defense leaders recall that the earliest conceptions of civil defense included defense against natural disasters; for example, civil defense agencies during the Truman administration cooperated with the General Services administration to share knowledge about how to fight fires. See, for example, Richard Gerstell, Director of Civil Defense, Commonwealth of Pennsylvania, “State Civil Defense Plans and Programs,” lecture given 11/22/63, Industrial College of the Armed Forces, Washington DC.

But as the Cold War continued, the all hazards approach to disasters faded and preparedness agencies focused almost exclusively on the response to nuclear attack. Why were federal preparedness agencies unable to preserve their mission of preparation and response to natural disasters? Part of the answer lies in the fact that the main responsibilities for disaster preparedness were placed in state and local entities. But the main reason that preparedness came to be synonymous with defense against nuclear attack rather than with preparation for natural disasters was the sudden increase in the perception of a Soviet threat.

Nuclear fear was on the national agenda before the creation of the emergency preparedness agencies. In its earliest stages, civil defense planning was coordinated by the National Security Resources Board's Office of Civil Defense Planning which was created by the 1947 National Security Act with the premise that uncertainty about the likelihood of nuclear attack and the immense threat it posed required "a continuous state of readiness."¹⁹ Two events shortly thereafter focused attention squarely on the threat of nuclear attack: the Soviet atomic test of 1949 and the Korean War. Both stunned the public, and policy elites reacted by creating the Federal Civil Defense Administration in 1950, which absorbed previous civil defense agencies.²⁰ Its mission was to engage in long term disaster planning, including providing civil defense education and training. During the late 1940s and 50s, the press was awash in stories about the threat and magnitude of weapons of mass destruction—including stories about how the A-bomb

¹⁹ NSRB Doc. 76, August 19, 1948, "Preliminary Statement on guiding Principles and Program Framework for Mobilization Planning," PHST, WHCF, Box 27, NSRB Folder 1.

²⁰ Civil Defense Act of 1950, Public Law 920, 81st Congress, 2nd session. Also see Federal Civil Defense Administration, "The National Plan for Civil Defense Against Enemy Attack" (Washington, DC: GPO, 1956), 7-103.

could leave cities pulverized in a matter of hours.²¹ The fear of an atomic Pearl Harbor was akin to press accounts about the danger of another September 11th during the homeland security debate.

Policy elites, meanwhile, were wary that Americans might retreat into isolationism and erupt in what historian Spencer Weart (1988, 103-269) called “nuclear fear” and planners referred to as “the problem of panic” (Grossman 2001).²² Many in the Truman administration made the link between popular support on the home front and the ideas that the US should signal to other nations that it was committed to a strong foreign policy (Coale 1947; Jervis, Stein, and LeBow 1989, 3-33, 125-152; McMahon 1991). A secret report in 1946 to President Truman links civil defense programs with the need to shore up national morale in the face of a protracted war:

Even a cursory examination of the characteristics of the American people and of the cultural and material fabric of their national life invites the conclusion that this nation is much more vulnerable to the psychological effects of the bomb than certain other nations. A study of the factors involved should not only assist us in determining the vulnerabilities of other nations, but, also, should lead us to the development of measures to lessen the effects of these phenomena should we be attacked ("Enclosure A" 1947).²³

²¹ This was a popular theme in general interest magazines such as *Life* or *Collier's*. See Grossman, 54-57, 142. Also see “Defense Lack seen as Pearl Harbor,” *New York Times*, October 10, 1949, 9; “Baruch is Critical of Defense Plans,” *New York Times*, October 31, 1949, 41; US Congress Joint Committee on Atomic Energy, Hearings, Civil Defense Against Atomic Attack, 81st Congress, 2nd sess., 1950, 140-150.

The August 21, 1953 issue of *Collier's* magazine included a FCDA-sponsored quiz intended to prevent readers from becoming “victims of panic.” The government’s publicity campaigns were aimed at frightening people sufficiently so that they would take part in civil defense drills but not so much that they would be paralyzed. Take the quiz at: < <http://www.pbs.org/wgbh/amex/bomb/sfeature/panicquiz.html>>. Last visited 4/16/04.

²² During hearings on the National Security Act, policymakers maintained that to forestall a post-war retreat into isolationism, the government had to reassure the public that the United States was prepared for an attack, and that something could be done about it, both to prevent it and in recovery. This would help maintain the link between deterrence and credibility. James Forrestal, said in 1945 to the House Military Affairs Committee, that “the world must know, with equal conviction that, as much as we hate war, we are ready to wage swift and effective war against any nation which tries to overthrow rule by law and justice, replacing it with rule by force. We should make the determination clear—by deeds as well as words—to any dreamer anywhere who may be scheming for world domination.” See Forrestal, Miscellaneous Files, Box 44, 1945 folder, “Statement by James Forrestal to the House Military Affairs Committee on HR 515 ‘Universal Military Training,’ November 26, 1945, p. 2. Forrestal was speaking in favor of universal military training, a proposal that was defeated but which still makes the connection between credibility and commitment to preparedness at home. (Quoted in Grossman 2001, 143)

²³ Also see Trachtenberg, Marc. 1988/89. ‘A Wasting Asset’: American Strategy and the Shifting Nuclear Balance, 1949-1954. *International Security* 13:5-49.

In the view of Truman administration planners, the possibility of nuclear war, when mixed with America's democratic and capitalist character, could result in either isolationism, American surrender of nuclear weapons to an international organization, or simply apathy. Civil defense planners wanted to enable as many Americans as possible to survive a Soviet attack, but in addition they wanted to manage the public's expectations about preparation for war and the danger of nuclear weapons. The Cold War was the dominant foreign policy issue of the day, and concerns about nuclear attack were the central focus of preparedness agencies, despite the original all hazards vision in the Hopley report. The federal government's use of the language of the "home front" to appeal to patriotic duty during the Cold War resembles the 21st century language of the "homeland" which politicians employ for a similar purpose.

During the Cold War, the federal government delegated much of the responsibility for civil defense preparedness to individual Americans; the government funded large scale programs such as the construction of bomb shelters and the printing of instructional materials, but the thrust of the civil defense program was educating the public through the "militarization" of the home: Dad built a bomb shelter in the backyard, Mom prepared a survival kit, and the children learned to "duck and cover" at school (McEnaney 2000). Americans responded by joining civil defense programs in droves; air raid drills voluntarily cleared the streets of New York, and the FCDA sent out almost 400 million pieces of civil defense literature to homes. Defense against nuclear attack, not natural disasters, inspired a sense of national purpose.²⁴

²⁴ Eli Lehrer and Amanda Dory advocate expanding civic participation in homeland security based on lessons from the civil defense era. See Eli Lehrer, "The Secret to Homeland Security," *The Weekly Standard*, 12/8/03, 13-14 and Amanda Dory, *Civil Security*, Washington, DC: CSIS, 2003.

[Insert Figure 1 About Here]

One reason for the militaristic approach was that from 1950 to 1972, Department of Defense agencies rather than domestic policy agencies led preparedness efforts that, not unexpectedly, centered on programs to prepare for nuclear and other kinds of human-caused attack. Shortly after his inauguration in 1953, President Eisenhower reorganized disaster relief programs into a new office of Civil Defense in the Department of the Army. A string of defense-dominated preparedness agencies followed: the Federal Civil Defense Administration (1950-1958); the Office of Civil and Defense Mobilization (1958-1961); the Office of Civil Defense (1961-1972); the Office of Emergency Planning (1961-1972); and the Office of Emergency Preparedness (1968-1973). Even while preparing for the next great war, these agencies maintained some responsibility for natural disasters; from January 1953 to June 1964, the OEP coordinated federal disaster assistance for 180 major disasters including 87 floods, 27 hurricanes, 23 severe storms and 18 tornadoes (Conley 2003). But this level of disaster involvement pales in comparison to the resources devoted to preparation for nuclear war or to the resources devoted to natural disasters since the 1990s. The height of civil defense came in 1961 when President Kennedy, spurred by the Berlin crisis, stressed the need for a comprehensive civil defense program.²⁵ Civil defense spending reached nearly \$600

²⁵ John F. Kennedy, "Radio and Television Report to the American People on the Berlin Crisis," July 1961.

million (in 1977 dollars) that year, but in most years between 1951 and 1973 spending was between \$100 and \$300 million.²⁶

After Kennedy, civil defense programs languished. Congress kept funding levels at about \$100 million per year in the 1970s. Presidents preferred to fund offensive capabilities rather than passive defenses, and people gradually lost faith in the effectiveness of civil defense efforts as the Soviet nuclear arsenal grew to include Intercontinental Ballistic Missiles that could reach the United States in a matter of minutes, not hours. President Jimmy Carter's reorganization plan to create FEMA consolidated civil defense programs, but in addition to technological changes, civil defense advocates tussled with proponents of mutually assured destruction, who believed that civil defense efforts were futile since the whole point of deterrence was to convince both sides that nuclear war was unwinnable.

After years of waning support, the Reagan administration briefly reinvigorated civil defense as part of a larger nuclear deterrence strategy (Dory 2003, 10-19). In 1980, Congress amended the 1950 Federal Civil Defense Act, intending to revitalize civil defense and, in response, FEMA proposed a seven-year, \$4.2 billion plan for new education and evacuation programs, among other initiatives.²⁷ Two years later, President Reagan affirmed the value of civil defense in the effort to defeat the Soviet Union in a National Security Decision Directive.²⁸ Congressional support weakened, however, and

²⁶ See Figure 1, Civil Defense Spending, 1951-1975. For a description of the activities of civil defense programs, see various reports to Congress, including "Activities and Status of Civil Defense in the United States," Report to the Congress by the Comptroller General of the United States, 10/26/71.

²⁷ General Accounting Office, "The Federal Emergency Management Agency's Plan for Revitalizing U.S. Civil Defense," GAO/ NSIAD-84-11, April 16, 1984, pp. i-iii.

²⁸ National Security Decision Directive 23 on "U.S. Civil Defense Policy," February 3, 1982.

the end of the Cold War and the collapse of the Soviet Union effectively put an end to civil defense programs meant to protect the United States from a massive Soviet attack.²⁹

In many ways, the genesis of civil defense in the United States mirrors the advent of homeland security policy. In both cases a crisis led to the creation of new organizations devoted to securing the nation against foreign attack. But while the natural disasters portion of the domestic preparedness agencies was obscured during the Cold War in the 1950s and 1960s, and again during the early 1980s when fears of nuclear war grew, the FEMA of the 21st century was, for a time, able to preserve its focus on natural disasters.

The Rise and Fall of FEMA

During the 1970s, as many civil defense programs came to be seen as merely wishful thinking, attention given to nuclear defense programs and their budgets withered. The congressional armed services committees were more concerned with offensive nuclear capability and deterrence than they were with passive defense. At the same time, Congress devoted an increasing amount of attention to natural and technological hazards after several high profile disasters and after pressure from state and local governments to rationalize the recovery process. That attention resulted in the Federal Disaster Relief Act of 1974 and the decision by Congress to allow the Department of Defense's Civil Defense Preparedness Agency to be "dual use" in preparing for both natural disasters and civil defense emergencies.³⁰ A year later, Congress conducted hearings on federal emergency

²⁹ In 1994, Congress repealed the Federal Civil Defense Act; Public Law 103-337, October 5, 1994; available at <<http://www.access.gpo.gov/uscode/title50A>>.

³⁰ That decision had little immediate impact, but it laid the foundation for policymakers to later expand the dual use and all hazards approaches. In 1976, Congress amended the Civil Defense Act of 1950 to recognize "that the organizational structures established jointly by the federal government and several states and their political subdivisions for civil

assistance programs and suspended those efforts only when President Carter began to review the issue. Carter eventually submitted Reorganization Plan Number 3 to Congress, which established FEMA in 1979.³¹ For the first time, emergency management functions were centralized at the federal level.

The FEMA reorganization rivals the creation of the DHS in complexity, if not in size (FEMA's staff is about 60 times smaller than the DHS). It combined the Department of Defense's DCPA with over 100 federal disaster-response programs, all of which reported to 20 different congressional committees. To appease interest groups and congressional committees, the reorganization plan transferred each program's political appointees to FEMA, which created isolated divisions or "stovepipes" with their own connections to relevant congressional committees and interest groups but little connection to each other. One participant in the reorganization recalled that "It was like trying to make a cake by mixing the milk still in the bottle, with the flour still in the sack, with the eggs still in their carton..." (NAPA 1993, 16).

It was not only stovepipes but also professional cultures that divided the agency. At least three distinct cultures combined to create FEMA, including: 1) the Department of Defense civil defense personnel, who tended to have seniority; 2) the disaster relief program, whose employees had considered themselves so close to the president in the 1970s that they answered the phones with the greeting, "White House"; 3) a firefighting culture from the scientific and grant making programs established by the Fire Prevention

defense purposes can be effectively utilized, without adversely affecting the basic civil defense objectives of this Act, to provide relief and assistance to people in areas of the United States struck by disasters other than disasters caused by enemy attack." Also see Keith Bea, "Proposed Transfer of FEMA to the Department of Homeland Security," *CRS Report*, July 29, 2002.

³¹ June 1978 - President Carter submitted to Congress "Reorganization Plan Number 3" to establish FEMA. After congressional approval the Reorganization Plan creating FEMA took effect April 1, 1979. (See also Executive Order 12127; 44 FR 19367, April 3, 1979.)

Control Act of 1974. Divided by culture and organizational responsibility, the fragmented agency was not able to establish a clear mission. Even so, its first director under Carter, John Macy, attempted to put the agency on a path toward an all hazards approach by emphasizing the similarities between natural hazards preparedness and civil defense activities.³² Under Macy, FEMA began development of an Integrated Emergency Management System that included “direction, control and warning systems which are common to the full range of emergencies from small isolated events to the ultimate emergency—war.”³³ All hazards, however, was just one idea in the policy stream, and it competed with agency divisions that wanted FEMA to emphasize their own special missions, whether earthquakes, fires, or civil defense. Whereas fire, floods, and even oil spills could rely upon identifiable constituencies or stakeholders, terrorism and civil defense had significant support only in the bureaucracy and on congressional committees. These institutional supports might have withered away earlier if events had not propelled terrorism and nuclear war onto the national agenda.

Terrorism first drew the attention of emergency preparedness planners during the 1972 Munich Olympics; there, television cameras captured the images of hooded Palestinian terrorists who tried to leverage 11 Israeli hostages for the release of 200 Arab guerrillas imprisoned in Israel. News coverage followed from the moments when the terrorists first captured the Israeli athletes to the eventual murder of the hostages the next day. The grisly material and the almost continuous television coverage “turned viewers into voyeurs” and while commentators have remarked on how this prominent coverage

³² Macy was Director from August 1979 to January 1981.

³³ “FEMA History,” Accessed 11/12/03 at <<http://www.fema.gov/about/history.shtm>>.

changed the nature of television, it was also true that the television coverage changed how Americans perceived terrorism.³⁴

Terrorism was the subject of several commissions and studies in the late 1970s, one of which was a 1978 National Governors Association report warning that “Little coordinated federal-state planning for terrorist consequence management has been undertaken” (National Governor's Association 1978, 107). The Association hoped that the newly established FEMA might “provide an important foundation for a comprehensive national emergency response system...” and so along with a host of other responsibilities FEMA was given the task of coordinating terrorism consequence management though most of the work of responding to terrorist disasters would fall to state and local first responders.³⁵

Terrorism might have gotten lost in the shuffle of reorganization if it were not for Ronald Reagan’s election to the presidency. Reagan took office with a clear idea that nuclear competition with the Soviets would be a centerpiece of his administration, and he made appointments accordingly. Reagan had been concerned with terrorism preparation and civil defense as governor of California. After witnessing the social unrest that defined

³⁴ Michael Thompson-Noel, “This Televisual Life,” *New Statesman*, July 26, 1996.

³⁵ In hearings on the plan to establish FEMA, members of Congress came to the conclusion that the agency would be responsible for the consequences of terrorism because such consequences resembled those of other kinds of incidents. One example of that conclusion is the following exchange:

Mr. McIntyre: We think the consequences of terrorist acts can be quite similar to the consequences of major natural and manmade disasters. For example, in both instances there will be serious disruptions of essential services or resources, or certainly could be, and I would emphasize the new Agency would be involved only with the consequences of terrorism and not with the incident itself. I want to underscore that point.

Mr. Levitas: That is the point I am most concerned about.

Mr. McIntyre: And so we felt that if you were going to have a broad-based agency to respond to emergency situations, that since the consequences of these terrorist acts could be expected to be similar to other emergencies, that this agency should be in a position to respond.

U.S. Congress, House Committee on Government Operations, Reorganization Plan No. 3 or 1978, p. 52. Also see Keith Bea, “FEMA’s Mission: Policy Directives of the Federal Emergency Management Agency,” *CRS Report for Congress*, February 13, 2002, 14

the state in the 1960s—riots and student protests—Reagan organized the California Specialized Training Institute in 1971, an emergency management counterterrorism training center. The director of the institute, Louis O. Giuffrida, a former National Guard officer and a general in California's state militia, became Reagan's first FEMA Director in 1981.³⁶

Partly in response to the Reagan administration's focus on national security and partly out of his own interest, Giuffrida made counterterrorism part of FEMA's agenda. Giuffrida had written articles and memos about the government's responsibilities in the event of a terrorist attack, and according to one colleague of Giuffrida's, "He wanted to be a player in the national security realm" and envisioned the agency as a "junior CIA or FBI."³⁷ When Giuffrida first took office, he asked the FEMA general counsel whether he had the authority to rename FEMA as the "Office of Civil Defense." (He couldn't because FEMA was a statutory term.)

Giuffrida made some progress in bringing together the more than 100 disaster response programs that were moved under the FEMA umbrella, but he overreached in his desire to make FEMA the lead agency in responding to terrorist attacks. His expertise in terrorism and confidence that FEMA could implement national security policy was not

³⁶ Giuffrida was an expert on domestic terrorism. At the U.S. Army War College in 1970, he wrote a thesis which in part concerned the logistics of interning African-Americans in the event of an urban riot. The thesis is reprinted here: Senate Committee on Governmental Affairs. 1981. Nomination of Louis O. Giuffrida. Washington, DC, 97th Cong., 1st Sess, Committee Print, 34-83.

³⁷ In a memo requested by Giuffrida, FEMA General Counsel George Jett lays out FEMA's authority in civil disturbances, "riots, demonstrations which get out of hand, etc." This memo and others refer to a previous Department of Justice memo which rejects FEMA's authority in "nonnatural catastrophes." The FEMA counsels explicitly disagree with Justice and advise that "dual use" provisions and FEMA's authority under executive order 12148 may allow FEMA to recommend declarations and assert authority in nonnatural disasters including Love Canal and "the Cuban influx" as well as in "major civil disturbances". See George Jett, General Counsel, "Memorandum for Louis O. Giuffrida, Responsibilities in Civil Disturbances," July 10, 1981; Craig B. Annear, Assistant General Counsel, "Note for Lee Thomas, The Applicability of the Disaster Relief Act of 1974 to Riots and Civil Disorders," May 21, 1981. The 1992 Los Angeles riots were declared a presidential disaster because of fire damage rather than riots.

Giuffrida's desire for FEMA to become a national security agency is reflected in a proposed executive order on intelligence activities, in which Jett writes, "I have suggested that consideration be given to the inclusion of a provision concerning FEMA involvement in intelligence matters in times of national emergency planning and response." See Jett, "Memorandum for Louis O. Giuffrida," 11/9/81.

enough to overcome the fact that the agency lacked the budget, the expertise, the manpower, and, most importantly, the bureaucratic clout to be influential in the national security world. The result was that FEMA's forays into national security were bungling at best and scandalous at worst.

Giuffrida most famously led FEMA to overreach its capacity in national security by developing a secret contingency plan that called for a declaration of martial law and suspension of the Constitution, turning control of the United States over to FEMA during a national crisis. The plan itself did not define national crisis, but it was understood to refer to nuclear war, massive terrorist attacks, or violent and widespread internal unrest. Of course, President Reagan never acted on the plan, but portions of it were controversial enough within the Reagan administration to call FEMA's leadership into question.³⁸ The martial law portions of the contingency plan were found in a June 30, 1982 memo written by Giuffrida's deputy for national preparedness programs, John Brinkerhoff.³⁹ The wide-ranging authority that would potentially be granted FEMA alarmed Attorney General William French Smith, who sent a letter to National Security Advisor Robert McFarlane on Aug. 2, 1984, urging that Reagan delay signing the draft executive order:

I believe that the role assigned to the Federal Emergency Management Agency in the revised Executive Order exceeds its proper function as a coordinating agency for emergency preparedness. This department and others have repeatedly raised serious policy and legal objections to the creation of an 'emergency czar' role for FEMA.⁴⁰

³⁸ It is not clear whether Reagan actually signed an executive order approving the contingency plan; the full facts remain obscured in part because President George W. Bush sealed some 68,000 pages of Reagan's White House records in November 2002. Elements of the draft executive order do appear in E.O. 12656 issued November 18, 1988.

³⁹ The scenario outlined in the Brinkerhoff memo somewhat resembled Giuffrida's thesis at the Army War College in Carlisle, Pa. in which he advocated martial law in case of a national uprising by black militants. The paper also advocated the roundup and transfer to "assembly centers or relocation camps" of at least 21 million "American Negroes." See Chardy, Alfonso, "Reagan Aides the 'Secret' Government," *Miami Herald*, July 5, 1987.

⁴⁰ William French Smith, Attorney General, letter to Robert C. McFarlane, Assistant to the President for National Security Affairs, Washington DC, August 2, 1984.

Giuffrida did not stop with inserting FEMA into contingency plans. With the memory of the Munich attacks still fresh, Giuffrida asserted a role for FEMA in preparing for a possible crisis at the 1984 Los Angeles Olympics. Other Reagan officials resented Giuffrida's ambition, and Smith's memo was one result of the backlash against Giuffrida and FEMA, according to some of Giuffrida's colleagues at the time.

Chastened by the Attorney General and others in the national security community, Giuffrida resigned in 1985 after being the subject of a federal investigation of alleged fraud and mismanagement. No subsequent FEMA director had the same personal interest in counterterrorism and civil defense as Giuffrida, and his controversial tenure discouraged any reemergence of FEMA as a significant participant in the national security realm.⁴¹ By the mid 1980s, FEMA was seen as a liability and a potential source of embarrassment; few people could see how valuable the agency was to become for a president.

While FEMA's organization was under attack, the emergency management profession was taking off. State and local officials began to invest in planning for how to respond to (if not yet mitigate) disasters from hurricanes, floods and earthquakes to chemical spills. States, counties, and cities began to centralize emergency response offices and de-emphasize civil defense. In a few cities, national guardsmen still presided over civil defense offices that passed out brochures on how to build shelters—but most communities moved toward the more urgent matters of figuring out how to respond to

⁴¹ It is notable that Giuffrida is not mentioned in FEMA's online history of the agency, <<http://www.fema.gov/about/history.shtm>>

A number of articles in the 1980s criticized FEMA's secret continuity of government programs, including a much cited article in *Penthouse* featuring Giuffrida. (See Donald Goldberg and Indy Badhwar, *Penthouse*, August 1985). Other critical articles included: Steven Emerson, "America's Domsday Project," *U.S. News & World Report*, 7 August 1989; Alfonso Chardy, "North Helped Revise Wartime Plans." *Miami Herald*, For a more judicious evaluation of FEMA's continuity of government programs see Harold C. Relyea, "Continuity of Government: Current Federal Arrangements and the Future," *Congressional Research Service Report*, Nov. 7, 2003.

more frequent natural disasters. The development of an emergency management profession saved lives and property: In 1969, for example, over 250 people died when Hurricane Camille struck the Gulf Coast but only 36 lost their lives when a similar hurricane, Andrew, hit Florida and Louisiana in 1992.⁴²

Organizationally, FEMA made a step forward in 1992 when it issued the Federal Response Plan, which provided a blueprint for coordinating resources during a disaster and clarified the agency's role as the clearinghouse for disaster assistance. Most importantly, the plan introduced the all hazards approach into FEMA's fundamental operational document, joined by 25 federal agencies and the American Red Cross.

Even so, FEMA's reaction to major disasters was often slow or piecemeal (May 1985; Popkin 1990). It was not only the agency's dabbling in national security matters that gave FEMA a bad name—like the true stories about building a secret 112,544 square foot bunker under the Greenbrier resort in West Virginia to house Congress during a nuclear war.⁴³ FEMA also lacked coordination in responding to natural disasters. For large disasters, FEMA's response could be slow and excessively bureaucratic. For small and medium sized disasters, FEMA was often unclear about whether it should intervene at all, and its equivocation frustrated states and localities. Congress was to blame for some of the agency's schizophrenia—until reorganization in 1993 and the repeal of the Civil Defense Act in 1994, FEMA reported to over a dozen congressional committees, including the Senate Armed Services committee, which confirmed appointees to an

⁴² Even the response to Camille was an improvement over emergency management in previous generations. When the Great Hurricane hit the Caribbean in 1780, 22,000 people died. "The safety precautions, suggested by the authorities, were for residents to put on all their clothes, tie pillows around their heads and hope for the best. By comparison the human toll of Hurricane Hugo was slight. The islanders knew in advance that the wind was coming - though about all they could do was duck." *Economist*, "Hurricane Hugo; When the Wind Blows," October, 1989, 22.

⁴³ Read more about the bunker complex here: <<http://www.pbs.org/wgbh/amex/bomb/sfeature/floorplan.html>> The government now offers tours, for a fee, to help defray the cost of upkeep for a Cold War hotel built for 1,000.

associate director position. Congress attempted to give direction to the agency by passing the Stafford Act of 1988, but the legislation contained a broad mandate with only the most general guidelines about FEMA's role in disaster preparation and response, and the act itself was ambiguous about whether or not FEMA was a national security agency.

[Insert Figure 2 About Here]

Ambiguity about FEMA's mission and a lack of resources contributed to a string of lackluster responses to high profile disasters, most notably Hurricanes Hugo in 1989 and Andrew in 1992. When Hugo struck the American Virgin Islands it caused \$1.6 billion in damage, partly because of a rare case of looting. Buildings were torn apart and the federal government had to dispatch military police and FBI agents to patrol the streets after 150 prisoners were freed from jail by the storm. The agency's slow response and requests for detailed cost assessments during the aftermath in South Carolina prompted Sen. Ernest Hollings to call FEMA's staff "a bunch of bureaucratic jackasses".⁴⁴

Similar problems with recovery plagued FEMA's response to Hurricane Andrew, which struck south Florida in 1992. FEMA was determined not to repeat the mistakes made during Hugo; the agency had secured a disaster declaration and sent communications equipment to Dade County even before landfall.⁴⁵ But things soon fell apart when the emergency managers, police and fire departments, and power companies who were supposed to respond to the disaster were themselves victims of the hurricane.

⁴⁴ Baker, James N., Howard Manly, and Daniel Glick, "The Storm After Hugo," *Newsweek*, October 9, 1989, 40. *Economist*, "Hurricane Hugo; When the Wind Blows," October, 1989, 22.

⁴⁵ Fortunately, Andrew did not cause a major loss of life because the warning systems had been effective and the hurricane missed the population center of central Miami. But the storm did destroy property, including buildings that were built after the adoption of the South Florida Building Code. It was later revealed that new construction had been in violation of the code.

With first responders incapacitated, no one was able to mount a damage assessment. According to studies of the response, “Officials in the state EOC [Emergency Operations Center] at Tallahassee kept pleading with local officials to tell them what they needed, and frustrated and equally frantic local officials kept saying they did not know what they needed-‘Send Everything!’ To which agonized state officials could only reply, ‘We can’t send everything!’” (NAPA 1993; Wamsley and Schroeder 1996).

The response was so disorganized three days after the hurricane (and after a visit by President Bush and the Director of FEMA) that Dade County Director of Emergency Preparedness Director Kate Hale held a press conference saying: “Where the hell is the cavalry on this one? We need food. We need water. We need people. For God's sake, where are they?”⁴⁶ After the firestorm of criticism in the media, FEMA’s authority in leading the recovery effort broke down. President Bush, in the midst of an election campaign, sent nearly 20,000 Navy, Air Force, and Coast Guard troops to Florida.⁴⁷ Instead of the FEMA director leading the effort, the White House sent Andrew Card, the Secretary of Transportation, to take charge of the recovery along with a cadre of generals. The NAPA (1993, 19) report summed up the chaotic response by stating that: “The best laid plans and procedures are now vulnerable to disruption, indeed destruction, by one dramatic sound bite that the media turns into political shock waves.” This was not the plague in Athens, but the situation was chaos for a bureaucratic age. FEMA lore holds that the agency’s poor response to fallout from Andrew in Louisiana, Georgia, and Florida contributed to Bush’s loss in the 1992 presidential race.

⁴⁶ Slevin, Peter, and Dexter Filkins, “We Need Help,” *Miami Herald*, August 28, 1992.

⁴⁷ Davis, Bob, “Brewing Storm,” *Wall Street Journal*, August 31, 1992, A1. In addition, Wendy Brown emphasizes the “...popular and media discourse about relevant state and federal agencies (e.g., the Federal Emergency Management Agency [FEMA]), that came close to displacing onto the agencies themselves responsibility for the suffering of victims.” Wendy Brown, *States of Injury* (Princeton: Princeton University Press, 1995), 68-69.

Professionalization

Though 1992 may have been the nadir for the agency, the emergency management profession was ascendant. By then, a host of associations, higher education programs, and journals gave the profession an institutional core with which it developed and refined a common language of disaster management. The profession provided the resources that the agency turned to after the 1992 crisis. Specifically, the language and best practices that came out of the professionalization of emergency management helped the agency to reorganize and build an adaptable organizing concept.

Most emergency management associations began as civil defense organizations but as the faith in the latter faded the idea of emergency management took its place. The US Civil Defense Council, for example, was founded in 1952 and changed its name to the National Coordinating Council on Emergency Management in 1983. In 1998, it began coordinating efforts worldwide as the International Association of Emergency Managers.⁴⁸ The slate of conferences, reference materials, and contact points offered by associations institutionalized vehicles for debating and developing best practices and common ideas. The growth of an academic discipline of emergency management further added to the intellectual resources of the profession. Faculty hired to teach emergency management devoted time to journals and conferences, and the students trained in newly formed degree programs began to staff federal, state, and local agencies. Gradually but steadily emergency management grew from an occupation whose members entered the field as a third or fourth career and had primarily experiential rather than academic knowledge to one in which members actively participated in both the academic and

⁴⁸ See figure 5 for a sample of major preparedness organizations.

practical sides of the profession.⁴⁹ Local and regional associations grew as well, and many began formulating state-regulated exams to license practitioners.

[Insert 7 about here]

As the profession gained more resources, it also grew in sophistication. As one emergency manager put it, "...some emergency management systems are exclusively 'ambulances at the bottom of cliffs', whereas others are also 'fences at the top'."⁵⁰ The profession came to understand a disaster as the middle of a longer process of preparation and recovery surrounding the actual event. In addition to all hazards, the profession adopted the all phases concept, or the idea that emergency management encompasses not just disaster recovery but preparation, response, and long-term mitigation. Both all phases and all hazards would prove important in the 1993 reorganization of FEMA.

The brightest lights in the profession had recognized that emergency management lacked coherence. What the 1993 National Academy report said of FEMA held for disaster management at all levels of government: "It has no strategic planning process for developing a mission and goals for the agency as a whole" (NAPA 1993, 41). After analyzing their experiences, emergency managers realized that they could not afford to shut off discussion about one type of disaster from discussion about others. Nor could they examine the response to natural disasters in isolation from all emergency management functions: mitigation, preparedness, response, and recovery. Another panel

⁴⁹ Information from Wayne Blanchard, FEMA's Higher Education Project file and personal communication, 6/04/05; Arthur Oyola-Yemaiel and Jennifer Wilson, "Three Essential Strategies for Emergency Management Professionalization in the U.S.," *International Journal of Mass Emergencies and Disasters*, March 2005.

⁵⁰ Neil Britton, "Higher Education in Emergency Management: What is Happening Elsewhere," Emergency Management Higher Education Conference, Emmitsburg, Maryland, June 2004, 2.

recommended a solution that would be adopted during the agency's reorganization: "a national emergency management system that is comprehensive, risk-based, and all hazards in approach."⁵¹ The profession's ideas, in addition to the institutional structures it provided, contributed to FEMA's success.

And once the agency began to turnaround and build a reputation, it in turn provided the profession with jobs, visibility, and an institutional home so that it grew exponentially. By 1994, four universities had begun emergency management degree programs.⁵² A decade later, there were at least 120 college level programs, from certificates and minors through doctoral degrees. Figure seven charts the rise of these programs. FEMA recognized both a demand and an opportunity for more academic training and research and established a higher education project in 1995 to foster the growth of college and university programs. The profession as a whole grew accordingly. In 2003 the Bureau of Labor Statistics listed emergency management as one of the fastest growing occupations in the US.⁵³

The profession was not so visible in 1993 but it had a strong enough core of prolific academics and experienced practitioners to develop criticism of existing government agencies and a plan for their reform. Though not univocal, the profession's counsel was instrumental in FEMA's reform. The profession provided ideas, training for current and future disaster managers, institutionalization outlasting any particular

⁵¹ US Federal Emergency Management Agency, FEMA Renewal, *Federal Emergency Management Agency National Performance Review Report* (Washington 1993), 2-3.

⁵² Bachelor's degrees in emergency management were offered at three schools by late 1994 and early 1995: University of North Texas, Thomas Edison University, and Rochester Institute of Technology. In addition, UCLA offered a continuing education certificate program.

⁵³ The BLS listed occupations with the largest expected increase in employment between 2002 and 2012. Bureau of Labor Statistics, "Tomorrow's Jobs," 2003. accessed 07/12/05 <<http://www.bls.gov/oco/pdf/oco2003.pdf>>

political leadership, and a common vocabulary waiting to be adopted by an administrative politician.

Post-Andrew criticism

Experienced emergency managers, both academics and practitioners, produced the National Academy and GAO reports. The central lesson that both reports drew from Hurricane Andrew was that FEMA lacked sufficient resources and sufficient coordination to respond to a major disaster, and the reports recommended shifting resources from the national security program to natural hazards programs so that more resources would be available for major disasters. The second lesson—not found explicitly in any report—was that FEMA had to learn to operate in the age of the “plebiscitary” president or the “politicized presidency” (Moe 1993; Moe 1998; Wildavsky 1991). Without presidential intervention, a healthy agency might respond to failure by bringing in experts to evaluate its shortcomings and attempting to fix them by writing new procedures. Today, however, the president will not wait for technocratic government to take its course. If there is an opportunity for the president to take credit or escape blame, experience shows that the president will appeal to the people through the media. Ever since the Brownlow Commission, the presidency has evolved toward a conception of itself as not merely a coequal branch of government or a unit of the executive branch but as the head of a corporation whose job it is to oversee all that is underneath (Karl 1963). When something in the factory’s machinery goes awry, as in the case of FEMA’s response to Hurricane Andrew, it is the president’s job to fix it.

In practice, the politicized or corporate model of the presidency results in the president's vacillation between ignoring FEMA and micro-managing it, as the NAPA (1993, 21-23) report points out. In addition to ambiguous statutes from Congress, FEMA received ambiguous signals from the president about the level of control or ownership he wanted over FEMA. The result was especially chaotic when mixed with a FEMA political leadership that was relatively inexperienced and un-professionalized—the agency was labeled the “federal turkey farm” by a House committee for its reputation as a dumping ground for political appointees (Dyne 1992).

The agency's reputation reached a low ebb during the early 1990s. The media routinely held up FEMA as an example of government inefficiency and incompetence; a *Washington Post* article labeled FEMA as “the agency that everybody loves to hate.”⁵⁴ Most major newspaper editorials during the period cast the agency in a negative light and there were few positive portrayals (see figure 2).

Following Andrew, Congress commissioned studies of FEMA's shortcomings. (Lippman 1992; NAPA 1993; Sylves 1994). The most bold and influential study, from NAPA, raised the possibility of a “death penalty” for FEMA, but in the end recommended reorganization along the lines of the original intentions of the agency's creators. One subhead in the report read “An institution not yet built.” FEMA was created with the reasonable idea that it would be a clearing house for federal disaster preparation, response, and recovery, but after implementation it suffered from vague mission statements, an unclear legislative charter, and compartmentalized organization.

The real bêtes noires of the study were FEMA's civil defense and national security programs. The NAPA report declared that “the time has come to shift the

⁵⁴ William Claiborne, “‘Cultures Being Clubbed,’” *Washington Post*, A21, May 20, 1993.

emphasis from national security to domestic emergency management using an all hazards approach” (NAPA 1993, x). The study charged that FEMA’s National Preparedness Directorate was unwilling to use its advanced communications and transportation equipment in rescue efforts for hurricanes, earthquakes, floods, and fires because of concerns that they might expose national security assets to the enemy. The GAO study and a series of congressional hearings added to the expert consensus. U.S. Comptroller General Charles A. Bowsher testified that the national security divisions of FEMA, especially the National Preparedness Directorate, had “significant assets that could be used more effectively to help guide the federal government’s response to catastrophic natural disasters, especially in light of the changing nature of national security emergencies” (Bowsher 1993, 13).

The NAPA (1993, 53-54) report states clearly that FEMA must “demilitarize”—at the time of the study, about 38 percent of FEMA’s total staff and about 27 percent of its budget (about \$100 million, excluding the disaster relief fund) were dedicated to national security emergencies. Of FEMA’s 3,000 full time employees, 1,900 held security clearances, creating (at least) two competing cultures. Not all observers agreed with the NAPA assessment, however. William Cumming, an attorney who retired from FEMA in 1999 after serving in the general counsel’s office since FEMA’s creation, said that in truth FEMA had been allowing its national security assets to be used for disaster response since 1984. According to Cumming, the national security divisions, with their distinct and at times secretive culture, made an easy scapegoat for FEMA’s real problem: the

agency was insufficiently staffed and funded to both prepare for and respond to disasters and play a role in national security.⁵⁵

In addition to recommending the break up of FEMA's national security division, the reports concluded that to be effective, FEMA needed greater involvement from the White House so that the "full weight of presidential authority can be brought to bear in managing federal agency work in the aftermath of disasters" (Sylves 1994). FEMA would soon get a director who would throw his weight around while bearing the imprimatur of the president.

Resurrection: James Lee Witt and all hazards

The tenure of James Lee Witt was a watershed for the agency turning it from a "federal turkey farm" into one of the most well respected agencies in the federal government. Witt was celebrated by emergency managers and politicians who saw Bill Clinton's popularity as president soar along with the agency's faster response to disasters. But Witt was also vilified both by those who found his promotion of FEMA to be crass and meretricious and by those partisans of counterterrorism and civil defense who saw their national security concerns pushed aside as the agency focused its resources on more conventional disasters. Witt's central accomplishment was to clearly define and articulate the mission of the agency—in essence institutionalizing the all hazards approach. He

⁵⁵ William Cumming, Personal Interview, Arlington, VA, December 10, 2003.

The FEMA counsel's office advised that defense assets could not be used for natural disasters: "However, the [Civil Defense] Act does not presently contain any authority for response, at the federal level, to a natural catastrophe." Patricia M. Gormley, FEMA General Counsel, "Memorandum for Steve Gaddy, Deputy Associate Director, External Affairs Directorate (cc: Grant Peterson)", July 14, 1992. Whatever the correctness of counsel's advice at that time, Congress amended the FCDA in 1993 to make it "all-hazards". See Public Law 103-160.

Other divisions of FEMA saw a greater role for civil defense funds and programs in natural disasters. For example, see Policy Coordinating Committee on Emergency Preparedness and Mobilization Civil Defense Working Group, Dual Use Memo, 1991. In practice FEMA was used to cope with technological disasters, including the Times Beach, Mo. Dioxin contamination in the early 1980s.

supported his rhetoric by making organizational changes which proved to politicians that the agency could perform tasks that would boost citizens' opinions of the federal government. His success depended on the work of the emergency management profession; before reorganizing the agency, he digested the NAPA report, made many of the recommended changes, and staffed the upper echelons of the agency with trained emergency managers.

Witt, however, earned admiration for his political skill; the former county judge and emergency services director from Yell County, Arkansas was not blind to the politics of Washington. He quickly silenced the agency's implacable critics—Senator Barbara Mikulski (D-Maryland), who until 1994 chaired the Senate appropriations subcommittee responsible for FEMA and Congressman Curt Weldon (D-Pennsylvania).⁵⁶ Mikulski had introduced a bill incorporating most of the suggestions of the NAPA study and although the bill died in committee, Witt proceeded to reorganize the agency along the same lines.⁵⁷

Winning political support in Congress was not easy—Witt recalls a meeting with Rep. Pete Stark, who had introduced a bill to abolish the agency:

I went up to the Hill myself and I told him what I wanted to do to reform and I said give me one year and if we don't do it I'll tell you.⁵⁸

What Witt did was reorganize FEMA to better accomplish tasks that would support the reelection goals of members of Congress and the president. FEMA supported those goals

⁵⁶ Carla Rivera, and Alan C. Miller. "Streamlined FEMA Quake Assistance Seen," *Los Angeles Times*, May 15, 1994.

⁵⁷ Witt opposed the Mikulski bill ((S.995) because it reduced the power of FEMA by eliminating most political appointees, transferring the continuity of government functions to the Department of Defense, and establishing a domestic crisis monitoring unit in the White House. See William Claiborne, "Doling Out Praise, FEMA Critic Pressed for Reform at Hearing," *Washington Post*, March, 25 1994, A21.

⁵⁸ James Lee Witt, Personal Interview, Washington, DC, April 15, 2004.

by quickly distributing disaster relief funds. The agency also improved its ability to reassure disaster victims through public relations programs and it vastly increased its role in mitigation. Before Witt's tenure, congressmen like Ernest Hollings won public approval by speaking out against FEMA, reflecting the public's frustration with the agency's slow response in a time of crisis. Witt was able to make representatives like Hollings and Stark realize that FEMA could potentially work to their advantage by providing constituents affected by disaster with an immediate response, one which would be citizens' most palpable and reassuring connection with the federal government.

The potential for aligning FEMA's mission with politicians' reelection goals had been present for some time, but it took active lobbying on Witt's part to become reality. Witt spoke to the chairs of the twenty committees that had a stake in FEMA's reorganization during his first months on the job. And Witt spent two days calling every member of Congress in the nine Midwestern states affected by flooding in the summer of 1993. "You have to reach out," Witt says, "I told them what we were doing, and that if they had a problem, to call me"(Roberts 1997).

Witt's accomplishments were even more impressive within his own agency. Immediately after becoming FEMA director, Witt articulated his mission: to support "all hazards, comprehensive emergency management" (Schneider 1998, 42). Previous reports and officials had appealed to dual use or all hazards, but Witt put the concept at the forefront of all FEMA's missions.⁵⁹ For Witt, all hazards meant that programs that would enable the agency to respond to all disasters should be given priority over specialized programs. FEMA would still employ earthquake specialists or flood specialists, but those

⁵⁹ Witt's public speeches and internal memos made "all hazards" the centerpiece of FEMA's mission. For example, Witt, "Memorandum for All FEMA Employees. Organizational Structure and Management, November 5, 1993.

programs would be limited, and national security programs would be curtailed. FEMA remained in charge of a few national security programs concerned with preserving basic government functions during a time of war, but these programs were separated from the rest of the agency. The result was that “all hazards” became a mantra that, when combined with organizational changes, turned FEMA into a streamlined, professional natural disasters preparation and response clearinghouse.

By adopting the all hazards approach, the agency streamlined core tasks and organized its missions, making it more effective. Having multiple response plans and multiple coordinators did not make sense, according to all hazards proponents, when the same police, fire, and emergency personnel would respond to all types of disasters. In the early days of the agency, “you had to be a librarian to keep up with all of the guidelines that were coming from FEMA,” said Kay Goss, the agency’s Associate Director for Preparedness from 1994-2001.⁶⁰ The all hazards approach won the allegiance of budget conscious emergency managers at all levels of government.

Organizationally, Witt made the changes recommended by the NAPA study: he eliminated the National Preparedness Directorate and reduced its role to an Office of National Security Coordination, which became a liaison to the National Security Council and other agencies.⁶¹ Procedurally, Witt refocused the agency’s mission on quick response to natural disasters; he interpreted statutes so as to allow a response to be set in motion even before disaster struck (Wamsley and Schroeder 1996).⁶² Witt intended to

⁶⁰ Kay C. Goss, Personal Interview, Washington, DC, November 20, 2003.

⁶¹ See FEMA Organization Charts in the appendix; also Witt, “Memorandum for All FEMA Employees, Organizational Structure and Management, November 5, 1993.

⁶² The Stafford Act and other statutes gives FEMA a broad—and vague—mandate (NAPA 1993). Witt did not have to interpret the statutes in the way he did—legally, all FEMA directors could have been more active in disaster response and even more active in national security matters, but the reason that they had to decline intervention in a number of occasion was that they lacked the resources.

make the reorganization palpable for the public. He reduced the time it took for payments to reach disaster victims and, in August 1993, the agency dispatched twelve tractor-trailer rigs of emergency supplies to North Carolina before Hurricane Emily made landfall. “We made a mistake with Hurricane Andrew by waiting for the states to tell us what they needed first,” said Richard Krimm, a FEMA associate director, “Now we go to the state and say, Here are the things you need, just tell us if you want them” (Roberts 1997).

A precondition for Witt’s success in refocusing the agency on natural disasters was cooperation from the president, Congress and the affected committees. Before taking office, Clinton recognized that FEMA needed reform, but he left the details up to his chosen administrative politician. Witt said that upon his nomination as director “The president knew something had to be done and he said are you going to be able to do it, and I said yes, I’ll fix it.”⁶³ Witt eliminated 10 presidentially-appointed management posts in the agency, which had earned a reputation as a dumping ground for political appointees. “The White House didn’t like that,” Witt said, “but the president didn’t mind.”

While Witt had only to gain the confidence of a single president, he had to lobby many more members of Congress to support his move away from defense issues toward all hazards; when Witt testified at a 1994 hearing on civil defense he spoke not about national security but about what was wrong with disaster preparedness.⁶⁴ Witt’s testimony gave the impression that the money and energy that the 1950 Federal Civil Defense Act mandated for national security matters was needed to improve the response to natural disasters. Pivotal coalitions in Congress agreed—the Armed Services

⁶³ James Lee Witt, Personal Interview, Washington, DC, April 15, 2004.

⁶⁴ Witt, “Statement Before the Subcommittee on Nuclear Deterrence, Arms Control, & Defense Intelligence, Committee on Armed Services, US Senate, May 25, 1993; Witt, “Hearing on the Civil Defense Budget,” Oversight and Investigations Subcommittee, House Armed Services Committee, April 21, 1994.

Committees had lost interest in civil defense programs in the 1990s—and so the Civil Defense Act was repealed in 1994, ending all Armed Services oversight over FEMA.⁶⁵ The \$146 million in FEMA’s budget that was technically authorized by the Act, as well as \$50 million more in “defense related” funds, were moved to natural disasters and all hazards programs. During the reorganization over 100 defense and security staff were reassigned to other duties, and nearly 40 percent of FEMA staff with security clearances had their clearances removed.⁶⁶ Changes in practice accompanied the organizational changes which reduced the priority the agency gave to national security. In the summer of 1993, FEMA used mobile communications vehicles that had been reserved for national security programs for the response to floods in the Midwest (Roberts 1997). Witt continued to lobby for FEMA’s independence throughout his term, and he established correspondence units to make sure that all letters from members of Congress and governors were answered within ten days.

In addition Witt added a mitigation directorate that was intended to reduce the injuries and economic losses caused by disasters—a concern expressed by members of Congress in the NAPA and GAO reports. For example, the “Flood Safe” program persuaded some homeowners in flood prone areas to buy insurance against losses. It also delivered federal money to states and localities, which pleased constituents. While mitigation was only in its early phases during Witt’s tenure, it was criticized for a lack of accountability and for the problem of moral hazard (Platt 1999, 69-110). Insured parties

⁶⁵ The Defense Authorization Act for fiscal year 1995 passed the House on August 17, 1994 by a vote of 280 to 137. In 1993, the Civil Defense Act was amended in order to make legal the diversion of funds from civil defense programs to natural hazards programs. Congress deleted a clause that said civil defense funds could be used for natural disaster purposes only “in a manner that is consistent with, contributes to, and does not detract from attack-related civil defense preparedness.”

⁶⁶ See the “Trefry Report,” Final Report and Recommendations, FEMA Security Practices Board of Review, 11/92, Richard G. Trefry, Chairman. Also Memorandum From Deputy Associate Director, National Preparedness, Issue 4.B., “Which FEMA Personnel Should Be Required to Have Security Clearances to Fulfill Their Emergency Assignments?” 12/18/86. Also Cumming interview.

had little incentive to avoid risk if they could count on being reimbursed by the federal government for losses. The mitigation programs wavered between being simply a program of federal grants derived from tax dollars and a program to educate public officials and private citizens about how to protect themselves against disasters and, when absolutely necessary, to provide them with financial assistance. Though mitigation may be useful for defending against terrorist attacks—structural mitigation prevented the attack on the Pentagon on September 11 from being worse than it was—during the 1990s mitigation programs focused primarily on natural hazards. The effect of creating a mitigation directorate was to move the agency away from national security functions toward natural hazards.

In addition to aligning the agency's interests with those of Congress, Witt made sure that the president received benefits from FEMA's success. Behind the personal connection with Bill Clinton so often observed by political commentators, the president was able to use FEMA as a tool to serve his reelection interests. FEMA's improved disaster response attracted attention, and Witt himself appeared at disaster scenes as the "eyes and ears" of the president, as he described his role during the recovery of the bodies of victims of TWA Flight 800. In testimony before Congress, Witt said that "disasters are political events"—he was aware that federal politicians receive benefits when emergency managers help the public recover from disasters.⁶⁷

[Insert Figure 3 About Here]

⁶⁷ Testimony to U.S. Senate, April 30, 1996. See figure 3.

During Witt's tenure, FEMA became more effective at responding to hazards and at mitigating their effects, but it also responded to more disasters than ever before and to more kinds of disasters, including "snow emergencies" for which previous Republican administrations had refused aid. Disaster aid went to communities in need, but the level of disaster aid was driven by political and electoral interests in addition to need. Only the president has the power to declare a federal disaster area, making it eligible for federal disaster assistance, but FEMA bears some responsibility for shifting its tasks away from national security and increasing the number and cost of disaster aid—a change that served the interests of the president and members of Congress (Platt 1999, 11-46). FEMA's increased popularity is in part driven by its efficiency in administering greater and greater distributive spending or, in other words, pork (Birkland 1997, 37; May 1985, 49).⁶⁸

Garrett and Sobel (2003) note both that from 1991-1999 states politically important to the president had a higher rate of disaster declaration by the president and that disaster expenditures were higher in states that had congressional representation on FEMA oversight committees.⁶⁹ They also find election year impacts for disaster aid, controlling for the true size of a disaster, which is measured through private property insurance claims and Red Cross assistance levels. Large disasters always received federal aid, but political interests determined whether smaller states would receive federal dollars or have to make do on their own. For example, in 1994 Bill Clinton refused to provide aid for recovery for floods that caused \$6.7 million in damage on the South Side of

⁶⁸ See figure 3.

⁶⁹ Other studies have found that the president's decision to issue a disaster declaration is influenced by congressional and media attention. See Richard T. Sylvester, "The Politics of Federal Emergency Management," in Richard T. Sylvester and William H. Waugh, Jr., Eds., *Disaster Management in the US and Canada*, (Springfield, IL: Charles C. Thomas), 1996.

Chicago. Illinois was considered a solidly Republican state and therefore not valuable to Clinton's reelection efforts. A year later, Clinton did provide aid to help residents of New Orleans, where a flood caused \$10 million in damage. The difference was that Louisiana was deemed a competitive state.

In addition to supporting political interests by providing material goods, FEMA improved its reputation through an aggressive public marketing campaign. At the one-year anniversary of the Reinventing Government initiative, Clinton noted that "today [FEMA] may be the most popular agency in the federal government." FEMA's internal communications adopted a focus on "customer service" like other agencies at the time, but perhaps more wholeheartedly.⁷⁰ Witt summed up the success this way: "We took FEMA and made it a brand name and people responded and supported it."⁷¹ Going further than smiling faces and the language of customer service, the agency even established a toll free number where individuals could request help during disasters. Much of the explanation for the agency's success comes down to Witt's marketing skill and media savvy. But what else changed after the heralded reorganization of 1993-94? FEMA still reported to multiple congressional committees, and Congress had not given the agency any new mandates to clarify its mission.

What changed was that a political appointee, James Lee Witt, refocused the agency's missions around all hazards. He was given the opportunity by external events—the Armed Services Committee was prepared to cede oversight of FEMA and, after a string of highly publicized natural disasters, political actors were ready to take credit for

⁷⁰ FEMA News Brief, 1:2, September 17, 1993. Letter From James Lee Witt to All FEMA Employees, "FEMA's Reorganization," September 7, 1993. Also see various "Director's Weekly Update, including June 13, 1997.

⁷¹ James Lee Witt, Personal Interview, Washington, DC, April 15, 2004. Witt mandated that all of FEMA's 4,000 full and part time staff receive training in customer service techniques.

improved disaster response. These structural and institutional factors allowed Witt to refocus the agency's core tasks on responding effectively to natural disasters. He did not have complete autonomy, but he did have a remarkable ability to adjust FEMA's missions, given an ambiguous legislative mandate, to a position that benefited the agency's reputation and success.

There was a cost to the transformation of FEMA, however. It was precisely FEMA's celebrated focus on all hazards that caused the agency to put civil defense and terrorism on the back burner. According to one longtime FEMA employee, "Some will say he introduced all hazards. I say he reduced the importance of some hazards at the expense of others." In shifting resources to programs that could be more generally applied to natural hazards, Witt scaled back the agency's national security role and left it ill prepared to combat the emerging terrorist threat. From 1998 to 2001, the Hart-Rudman Commission looked for an agency to become the cornerstone for revitalizing domestic security to address the threat of terrorism, among other concerns, but found FEMA lacking. "FEMA was considered a centerpiece, but in need of significant resources and culture shock," according to Frank Hoffman, who directed the Commission's homeland security research.⁷² FEMA's history and mission statement allowed for a greater national security and counterterrorism role, Hoffman said, but by the late 1990s its culture and capabilities were not up to the task. The Hart-Rudman Commission supported the concept of all hazards as a way to maximize federal support for disasters and minimize bureaucracy, but it also supported adding new capabilities to FEMA, many of which were eliminated during Witt's tenure.

⁷² Frank G. Hoffman, Personal E-mail Correspondence, 12/11/03. FEMA's witnesses before the Hart-Rudman Commission were Lacey Suiter and V. Clay Hollister. Notes of their briefing do not exist.

Other bureaucratic actors knew that FEMA's national security role would have to be reduced in exchange for a more effective natural hazards response. While recognizing FEMA's new direction, other agencies asked plaintive questions about who, if not FEMA, would be responsible for domestic security functions that fall outside the purview of the FBI or state and local agencies. A letter from the Department of Defense to FEMA said that "The relevant question is not whether we save the name civil defense, whether the [Civil Defense] Act is amended or replaced, or whether 'all hazards' includes 'attacks.' Instead, the Congress and the Administration together must focus on stating clearly: What is the Government's commitment to Federal and State civil preparedness and military support for that preparedness, and how will they be authorized and funded after FY 1993?"⁷³

While support for traditional civil defense flickered out, terrorism was increasingly on the agenda in the 1990s. Some policymakers urged FEMA to make a meaningful organizational change in order to play a role in terrorism response, but the agency, having just completed a major reorganization, refused. Numerous commissions studied terrorism in the 1990s, spurred by terrorist incidents in Oklahoma City, the World Trade Center, and Khobar Towers, Kenya.⁷⁴ And in 1993 a Sense of Congress resolution called on the president to:

... strengthen Federal interagency emergency planning by the Federal Emergency Management Agency and other appropriate Federal, State and local agencies for development of a capability for early detection and warning of and response to: (1) potential terrorist use of chemical or biological agents or weapons, and (2) emergencies or natural disasters involving industrial chemicals or the widespread outbreak of disease.⁷⁵

⁷³ Letter from Maxwell Alston, Office of the Undersecretary of Defense, to John McKay, FEMA, and Chris Heiser, OMB, May 7, 1993.

⁷⁴ See a listing of major reports in "Commissions' Recommendations," by Steve Bowman in the CRS Electronic Briefing Book on Terrorism, at <<http://www.congress.gov/brbk/html/ebter93.html>> last accessed 12/10/03.

⁷⁵ P.L. 103-160, 107 Stat. 1855-56. November 30, 1993.

The National Security Council, too, hoped that FEMA would take on additional responsibilities in preparing for a domestic terrorist attack. Richard Clarke, the first National Coordinator for Security, Infrastructure Protection, and Counterterrorism, was worried about the United States' organizational capability to respond to terrorism, but the NSC was not able to persuade FEMA to take on more national security responsibilities.⁷⁶ FEMA was offered the opportunity to train first responders for weapons of mass destruction (WMD) attacks, but declined; the training programs were eventually run by the Department of Defense and the Department of Justice, which created the Domestic Preparedness Program in 1998.⁷⁷ One former civil defense official said that he and others tried to persuade Witt to pay more attention to the growing terrorist threat by taking on programs to train first responders: "I went to Witt twice and asked him and he refused to do it." In this account, Witt refused to allow the agency to take on a greater role in terrorism because he thought the agency lacked the resources, not the authority, to do an adequate job. The sustained refusal to take on more of a role in terrorism represented yet another instance of autonomy stemming from a reputation for addressing natural, not terrorist, disasters.

⁷⁶ Clarke sent a memo on October 16, 1996 to Lacy Suiter, FEMA's Executive Assistant Director for Response and Recovery, asking the agency to clarify its responsibilities in the event of a terrorist incident. Clarke asked FEMA a series of questions about what prevented the agency from taking a greater role in terrorism preparedness and consequence management, especially during the recently completed Atlanta Olympics. The agency responded by saying that FEMA's policy was that it did not generally have the authority to use money for preparedness in advance of disaster threats. It also requested that "each agency with an emergency preparedness function for terrorist incident consequence management is responsible for requesting funding for its predeployment activities and emergency preparedness." See John P. Carey, FEMA General Counsel, "FEMA's Role in Advance of a Terrorist Incident," Memorandum for Richard A. Clarke, NSC, 11/21/96. Information about Clarke's actions comes from conversations with two of his colleagues in FEMA.

⁷⁷ The Office for Domestic Preparedness (ODP), in the Border and Transportation Security Directorate of DHS as of March 1, 2003, was formerly in the Department of Justice. It is assigned by the Homeland Security Act of 2002, Public Law 107-296, as the principal component of the Department of Homeland Security responsible for preparing state and local governments and private entities for acts of terrorism. In carrying out its mission, ODP is the primary office responsible to providing training, funds for the purchase of equipment, support for the planning and execution of exercises, technical assistance and other support to assist states and local jurisdictions.

Witt tells a different story. He grants that a partnership between the FBI and FEMA to train responders to terrorist attacks was not successful because the program was buried in the Department of Justice but says that he asked Attorney General Janet Reno to move the Office of Domestic Preparedness to FEMA and she refused. In either case, natural hazards were a far greater priority for Witt and FEMA than were national security and terrorist hazards. In debates over whether to include FEMA in the Department of Homeland Security, Witt was fond of noting that the agency responded to more than 500 emergencies and major disasters during the 1990s, but only two of these were related to terrorism (the Oklahoma City and New York City World Trade Center bombings).⁷⁸ Though commissions, White House staff, and former FEMA civil defense personnel were concerned about the problem of terrorism, no one had the clout to persuade the agency to broaden its mission.

Eventually, an annex of the Federal Response Plan, issued in 1997, delineated responsibility for combating terrorism: crisis management responsibilities were given to the FBI and consequence management was given to FEMA.⁷⁹ It was a “kick in the pants” for the agency, according to one member of FEMA’s national security division, but the agency made no major organizational changes in response to the plan.

⁷⁸ James Lee Witt, Personal Interview, Washington, DC, April 15, 2004. Also see James Lee Witt and Associates, *Department of Homeland Security and FEMA*, (Washington, DC 2002), unpublished.

⁷⁹ Terrorism Annex of the Federal Response Plan, issued February 7, 1997. The Federal Response Plan was first published in May 1992 by FEMA pursuant to the authority in the Stafford Act and after a lengthy coordination process with the other signatory agencies. The Plan coordinates delivery of disaster response services among 25 federal agencies and the American Red Cross. See Keith Bea, Overview of Components of the National Response Plan and Selected Issues, CRS Reports, (Washington, DC: Congressional Research Service), December 24, 2003.

FEMA after September 11

The most dramatic kick came after September 11: the largest ever terrorist attack on American soil required a massive investment in recovery and intensive planning for how to restructure American government to face a new threat. This was a true crisis—a time when an extraordinary event was salient to American citizens and threatened their shared values, peace of mind and, for some, their lives and property. Significant change is possible during a crisis because politics is less bound by normal routine; vested interests lose their grip, and there is greater opportunity for a new consensus to prevail (Olson 1971).

The flurry of political activity following September 11 is understandable: politicians had to show voters that they were doing something—anything—to defend against the terrorist threat. Witness the many reorganizations of emergency services agencies at the state level. Just as politicians were able to use preparedness programs to convince suburban voters that the government was doing something to prepare for the worst during the Cold War, politicians after September 11 had good reason to use preparedness agencies to convince the public that the government could secure the nation against the threat of terrorism.⁸⁰

The most logical agency to take on preparedness tasks was FEMA, which had a preparedness brand identity and a history of civil defense programs. Until homeland security reorganization, FEMA was responsible for civil defense using plans that were much the same as those laid out by the FCDA in the 1950s. But although FEMA was included in the new Department of Homeland Security and tasked with counterterrorism

⁸⁰ Government memoranda during the Truman, Eisenhower, and Kennedy administrations show that this kind of thinking was common (Grossman 2001).

preparedness and response, it retained a focus on all hazards even though some experts had planned for the agency to be the centerpiece of a new domestic security effort.⁸¹

FEMA's stability after September 11 was all the more striking because of the massive overhaul of other agencies in the new department. Formerly intransigent customs and border patrol agencies were later combined and then separated into border security and enforcement divisions. The Treasury ceded some of its law enforcement power to the new Department. But FEMA, which had been asked to take on a greater national security role during the 1990s, was conspicuously immune from the shockwaves sent through the government by September 11 and the subsequent reorganization. FEMA was folded into the new Department, but its organization and procedures if not its authority remained much the same as before.⁸² While FEMA maintained its core as an all hazards agency, it lost budget and jurisdictional authority when the Office of Domestic Preparedness, charged with funding terrorism preparation and response for states and localities, was moved out of the agency into the DHS.

⁸¹ The Hart-Rudman Commission envisioned FEMA as the centerpiece of a new domestic security effort.

⁸² FEMA has made minor adjustments to accommodate new concerns about terrorism, forming working groups on the subject and hiring emergency managers with some terrorism experience. Shawn Fenn was a graduate student at the University of Florida researching how to integrate terrorist threats into urban planning when terrorists struck on 9-11. He soon found that his research was a hot commodity, and after working for the state of Florida, he joined FEMA's mitigation division in order to integrate counterterrorism into federal, state, and local "all hazard" mitigation programs. "There's a mitigation posture in the (emergency management) community right now," Fenn said. "How do you fold terrorism into that? That's the challenge."

In January 2002, FEMA issued a paper stating that terrorism is just another hazard and therefore can be mitigated like any other. Of course it is not exactly like any other hazard, but FEMA found authority in the Stafford Act to provide mitigation for fire, floods, and explosions, regardless of their cause. One way FEMA can engage in terrorism mitigation is to encourage the adoption building standards that can protect against earthquakes and floods while also providing defense against car bombs. But terrorism will take some time to be included into the mitigation division, Fenn says, because few people in his division have security clearances or are in contact with national security personnel who have access to threat information.

Examples of publications advising risk management for terrorism, published in December 2003, include: FEMA 426, Reference Manual to Mitigate Potential Terrorist Attacks Against Building; FEMA 427, Primer for Design of Commercial Buildings to Mitigate Terrorist Attacks; FEMA 428, Primer to Design Safe School Projects in Case of Terrorist Attacks; FEMA 429, Insurance, Finance, and Regulation Primer for Risk Management in Buildings. See <<http://www.fema.gov/fima/rmsp.shtm>>

FEMA was able to resist political pressure to emphasize homeland security because of its evolution from an agency chastened in the 1980s after attempting to be a major player in the national security realm to a reorganized agency with a reputation among disaster-plagued communities for an all hazards and all phases approach. The narrative of FEMA's rise and fall and resurrection is compelling in its own right, but an adequate explanation in political science must go beyond simply telling the story or even stating that "history matters"; it must explain exactly how history matters. This paper uses historical comparison to show that after 1993 FEMA developed a strong reputation by adopting an organizing concept among significant social groups, with the help of an administrative politician, and by focusing on a few achievable core tasks that provided benefits to politicians. With support from a professional culture that preserved learning from the agency's past mistakes, Witt restructured the agency's organizational hierarchy to emphasize effective preparedness and response to natural disasters and to communicate successes to politicians and the public.

Reputation, to be effective, must adhere to the agency and not to individuals. The first test of Witt's legacy came after the election of George W. Bush, who appointed his campaign manager, Joe Allbaugh, as FEMA director. Allbaugh wanted to take the agency in a new direction by refocusing its efforts on civil defense and counterterrorism. He reestablished the Office of National Preparedness, primarily to train first responders to terrorism; (the office had the same name as one established by Director Giuffrida, which lasted from 1981 to 1993).⁸³ Recreating the ONP caused some concern among agency employees, and the office did not become as powerful or as large as it was during the

⁸³ Allbaugh reestablished the ONP on May 8, 2001. The original ONP was established in September 1981 and lasted until November 1993. This was not directly opposed to the direction the agency took under Witt—Witt advised Allbaugh to move the Office of Domestic Preparedness from the Justice Department to FEMA.

1980s. Another part of Allbaugh's reorganization was the elimination of programs that administration officials deemed inefficient (Haddow and Bullock 2003, 13). The most significant of these was a disaster mitigation program named Project Impact provided education and grants to build disaster resistant communities. Immediately after Allbaugh eliminated the program the Nisqually Earthquake shook Seattle, one of the project's model communities. After the quake, Seattle's mayor told a national television audience that Project Impact was the reason why the city suffered almost no damage from the 6.8 magnitude earthquake. The mayor's testament and protest from FEMA staff and state and local officials convinced Congress to fund Project Impact during the 2001 appropriations process. Good fortune as much as Project Impact deserves credit for saving Seattle since an earthquake that struck closer to the city could have caused devastation. In any case, the timing of the quake elicited support for the mitigation program and made for great political theatre.

Mitigation was an important part of Witt's all hazards, all phases approach—natural disaster preparation with a long time horizon—and to eliminate such programs was to change the agency's organizing concept. Even though political appointees had the legal authority to restructure FEMA's core tasks, the agency's reputation was strong enough to resist demands to shift resources from natural disasters and mitigation to counterterrorism, as the case of Project Impact shows. Whether the agency will continue to develop an intelligent mitigation policy or whether it will simply distribute money for structural improvement projects that are more pork than real solutions remains an open question.

The most striking instance of FEMA's ability to preserve its all hazards approach in the face of political pressure came during the political upheaval that followed September 11. Immediately after the attacks, political leaders looked to FEMA to shift its mission and core tasks from natural disasters to counterterrorism. On February 28, 2003, Bush issued Homeland Security Presidential Directive 5, which called for the establishment of a National Response Plan to delineate the responsibilities of emergency management in the homeland security environment. The resulting plan mentions "all hazards" and explicitly sets a new direction for emergency management after September 11. The original Federal Response Plan, written during the 1980s and promulgated in 1992, focused on natural disasters—there are still separate plans for radiological and other hazards requiring technical expertise.⁸⁴ The president requested the new NRP so that there would be a single plan for all disasters, a true all hazards plan in which FEMA would have the authority to respond to disasters at the request either of the president or of other agencies—as in the case of an agricultural disaster that could fall under the jurisdiction of the secretary of agriculture—or when multiple agencies are involved and FEMA assumes a coordinating role.

The White House also requested the NRP in order to put its stamp on emergency management: the president and DHS Secretary Tom Ridge directed a policy team to develop a plan that replaced terms and concepts from previous plans with fresh ideas. Like the decision to adopt the term "homeland security," the Bush team wanted to develop a language that was distinctive, and often these terms had a military tone. One of the leaders of the planning group, Major General Bruce Lawlor, Ridge's Chief of Staff,

⁸⁴ The FRP derived from the Federal Plan for Response to a Catastrophic Earthquake published in 1987. The FRP was published in May 1992.

asked for a “battle book” listing what would be done in the event of each type of disaster. Longtime FEMA employees found the request strange because it flew in the face of the all hazards principle, but they complied, though one member of the policy team thought about vindicating the all hazards principle by “filling the book with page after page of the same instructions—it’s the same for every hazard, that’s what we’ve been taught.”

The initial draft of the National Response Plan, issued May 14, 2003, begins with a “Mandate for Change” in the introduction and calls for a “new paradigm in incident management.”⁸⁵ Like other documents issued at the time, it stresses “awareness and prevention” of hazards, using terms suited for law enforcement rather than the favored term of the emergency management profession, “mitigation.” One could prevent a terrorist attack, but how does the government *prevent* an earthquake or a tornado? And it lists natural disasters as only one of five areas of possible contingencies; the others are terrorism, civil unrest, technological accidents, and special events requiring extra security. FEMA is given an extraordinary amount of responsibility in the plan—an amount that would require significant reorganization or new resources.

After the policy team completed its task, the draft was sent to state and local agencies as well as to other federal agencies for review and comment. The response was swift and negative according to a FEMA director: “The guidance was to create an entirely new plan. We did that. ...but that guidance had to be reversed 180 degrees.” States and localities did not like the new terms, and others in the DHS saw their point. There was already a considerable investment in existing definitions, plans, and procedures, and to create a new system would require a significant cost in time and money, a risky endeavor

⁸⁵ Much of the substance of the initial response plan came from documents prepared by RAND at the request of the DHS. RAND had never before prepared a response plan. The original mandate for the plan came from Homeland Security Presidential Directive #5.

for a system that performed better than it did a decade ago. FEMA had engaged in niche construction, and in doing so generated consistent support that helped its organizing concept and core tasks outlast political and environmental transitions.⁸⁶

Back at the drawing board, the policy team developed a brief plan that could be applied to all types of contingencies. This draft was only 11 pages while the original was 53 pages. Rather than reinventing the wheel, the planners relied on the existing understanding of how all hazards operates and simply incorporated terrorism into the procedures, giving FEMA formal authority over the response to terrorist contingencies in an initial plan that was approved by the Homeland Security Council on September 30, 2003. Perhaps taking a page from Witt's successful appearances at disaster sites, the plan includes a provision for a "Principal Federal Official" who would represent the DHS Secretary at major disaster scenes. The official could be from FEMA, but the designation is left open, giving the president the flexibility to name an official who best represents him.⁸⁷

Meanwhile, the legacy of all hazards remains, even if precariously. The DHS Undersecretary for Preparedness and Response, Michael Brown, asked FEMA employees to repeat "all hazards" like a mantra when he spoke to them about the agency's mission after September 11, and on the first anniversary of the creation of the DHS, Secretary Tom Ridge noted that the Department "is an all hazards agency."⁸⁸ FEMA has established itself as the central agency for managing natural disasters, and since

⁸⁶ "Niche construction" is a term borrowed from evolutionary biology that refers to the activity of an organism that alters its environment to improve its chances of survival. See Laland et. al. (2003).

⁸⁷ The initial official version of the plan was issued in October 2003. Details about the plan presented by Charles Hess, Director of Advisory Services in the FEMA Response Division, at the GWU Workshop on Emergency Management in the Homeland Security Environment, November 19-20, 2003; available at: <<http://www.gwu.edu/~workshop/download/1>>, accessed 3/30/04.

⁸⁸ Tom Ridge, "Remarks Marking the One-Year Anniversary. Of the Creation of the Department of Homeland Security," 2/23/04.

September 11 it has made connections with other agencies so that the same skills and equipment used in natural disasters can be used in terrorist attacks. But this time, unlike during the Cold War, natural disasters set the pace of the agency.

The limits of autonomy

FEMA was one of the agencies least disturbed by the tsunami of reorganization following September 11. The immigration agencies were completely reorganized, and the federal government created a large new aviation bureaucracy. Despite FEMA's relative stability, its reputation was not enough to insulate it from change. In addition to showing the power of bureaucratic autonomy, the history of emergency management agencies shows that autonomy has its limits. The crisis of 9-11 was different from other crises in the history of emergency management because it led to a massive reorganization that placed FEMA under the authority of a large department devoted to a new mission: security.

The department's impact on FEMA was real but not immense. The department secretary moved many of the grant-making responsibilities out of FEMA and required regular reports on terrorism preparedness. More importantly, the agency now no longer reports directly to the president. The FEMA Director is now the DHS Under Secretary for Emergency Preparedness and Response, which means that he must report to the Department's Secretary along with the other undersecretaries. In practice, this means that FEMA no longer has a close relationship with members of Congress, with the president, or with the public. The legislative affairs units are not what they once were, and customer

service will be tested when a major disaster strikes.⁸⁹ In general, however, the department's management structure was weak. DHS leaders, short of time and resources, could only accomplish a few tasks successfully, leaving most agencies free to shape their own tasks. Organizational structures are not the only limits on autonomy, however. The social consensus in favor of making counterterrorism a central responsibility ensured that FEMA had to devote some resources to counterterrorism.⁹⁰ The agency's clientele in states and localities and other federal agencies asked about terrorism preparedness in the wake of 9-11, and FEMA had to respond to their requests. Clientele agencies like FEMA would be expected to be more prone to change following a crisis than elemental agencies because clientele act as a feedback mechanism and induce change in accord with their preferences. In addition, in the wake of 9-11 FEMA lost some of the resources that contributed to its reputation, and thus, autonomy. The agency no longer had as many administrative politicians, and Witt was followed by two agency directors who lacked emergency management experience.⁹¹ The profession's status within the agency weakened, it lost experienced civil servants, and morale sank.

Witt, among others, publicly declared that the agency was headed in the wrong direction after being incorporated into the department and that its increasing proficiency in natural disasters preparation and response would be stunted by the focus on terrorism in the DHS. Emergency management professional conferences, formerly almost exclusively focused on natural disasters like fires, floods, and earthquakes, now spend an

⁸⁹ FEMA's response to four hurricanes which struck Florida in 2004 was generally well-regarded (though the election-year response in an electorally rich state could have been an exception).

⁹⁰ Recall that FEMA avoided taking on some counterterrorism responsibility during the 1990s, jobs that were given to the FBI and other agencies.

⁹¹ Spencer S. Hsu, "Leaders Lacking Disaster Experience," *Washington Post*, 9/9/05. Two studies confirm FEMA's low morale after 9-11, at least in part because of a lack of leadership with disaster experience. Partnership for Public Service, a nonprofit group that promotes careers in federal government, ranked FEMA as the least desirable of 28 agencies studied in 2003. The American Federation of Government Employees surveyed career FEMA professionals in 2004 about working conditions and only 10 out of 84 ranked agency leaders excellent or good.

increasing amount of time discussing whether the focus on counterterrorism will outweigh the natural disaster capabilities the profession has built over decades.

Witt worries that the loss of these connections has hurt the agency's ability to respond to disasters. "I literally had to introduce Mike Brown to members of Congress," Witt says. One congressional committee chairman had to call Witt to ask for help with wildfire relief because he could not get his calls returned by the DHS. Agency employees report that they must now go through several layers of bureaucracy within the Department in order to enact a policy change, whereas previously the agency was able to make changes after seeking approval directly from Congress or the White House. The result is that much of the new money for emergency management is solely for terrorism, not for all hazards. Bioshields and WMD training have little value for hurricanes and tornados. The Office of Domestic Preparedness in the DHS now funds fire and emergency management training with little consultation with FEMA, according to some in the agency. Witt frames FEMA's situation as a crisis, using strong language in speeches claiming that "It's not about natural disasters anymore, it's about terrorism."

It will take several years to determine whether FEMA can withstand funding and personnel trends that favor counterterrorism. At least until Hurricane Katrina, the agency seems to have had the organizational capacity to maintain a good reputation among pivotal groups. Still, the agency's mission could become confused or myopically focused on terrorism, leaving FEMA ripe for another administrative politician who can convince elected officials of the harmony between their interests and an effective well-regarded and relatively independent disaster relief agency.

[Insert Figures 4,5, and 6 About Here]

Reputation and autonomy

For most of their history, FEMA and its predecessors have been barometers of the nation's concern with security. During the height of the Cold War, domestic preparedness agencies were well funded and prominent. They slid into irrelevance until the 1980s, when increased Cold War tensions and the threat of terrorism put FEMA on the front pages. After September 11, FEMA was again in the news, but it resisted political pressure to change its organizing concept and core tasks. The FEMA of the 1990s did what the agency of the 1980s and the Cold War could not—it resisted the attempts of political superiors to change its mission by developing a reputation for all hazards preparation and response. With the support of an emergency management professional culture, an enterprising director made political actors realize that the agency's success was consonant with their own. Politicians who threatened to dissolve the agency backed down, and FEMA had the power to shape and preserve its approach and focus on natural disasters.

One reading of the history of FEMA might be that by defining its mission in a way that supports politicians' reelection chances the agency was purely an instrument of political actors and not truly autonomous. This is the kind of explanation that emphasizes the critical role of the median voter in Congress. But this explanation fails to take into account the degree to which FEMA made policy and set its own course to a degree not achieved previously in its history. While FEMA may not have gained autonomy or rejected the dictates of its political superiors to the same degree as some of the more

intransigent agencies in American history, FEMA did manage to preserve its central mission against political pressure during at least three critical periods—the reorganization begun in 1993, following terrorist attacks attempts by politicians to reorient the agency’s tasks, and the later creation of the Department of Homeland Security.

The crucial difference between FEMA before 1993 without autonomy and after is the presence of a strong reputation among disaster-threatened communities for effective all hazard preparation and response. That reputation emerged because of the rise of several factors. After the emergency management profession matured, it provided expertise to the agency through reports, training and a culture that produced knowledgeable managers at the state and local level, some of whom eventually served in FEMA. Professional emergency managers helped to criticize and improve the agency’s performance, largely by helping it to hone a set of achievable core tasks and adaptable concepts to structure disaster management. The ability of the agency to communicate and to respond to criticism allowed it to better serve its stakeholders and to signal the agency’s responsiveness. During the 1990s FEMA improved its public and governmental relations, which undoubtedly aided the agency’s appearance, but experts disagree whether the improved reputation reflected more efficient performance or whether it reflected mere marketing and greater federal spending. Politicians came to respect FEMA because they could claim credit for its success in delivering goods efficiently. Whether government disaster relief is more efficient than private aid is an open question—scholars have demonstrated the political nature of disaster declarations, and Witt admitted as much himself (Garrett and Sobel 2003).

Institutionalization in the Homeland Security Environment

FEMA's turnaround was a monumental accomplishment because the agency institutionalized changes beyond the tenure of the administrative politician who led reform. The foundation of institutionalization is not so much in a single, clear mission—a conclusion often attributed to Wilson (1989)—but rather in an adaptable concept that structures diverse tasks and missions. Though reform was institutionalized quickly following reorganization, the all hazards and all phases concepts developed gradually in the previous decades as the demand for federal natural disaster assistance surpassed the need for civil defense capacities. Witt and others used the all hazards approach to reduce FEMA's role in civil defense and national security to a bare minimum while increasing its capacity to provide natural disaster assistance. All hazards and all phases worked as organizing concepts; they met the demands of politicians and the public and earned the support of the emergency management profession.

Had FEMA followed a political control model of bureaucracy, it would have behaved vastly differently than the account just presented. During the 1980s, FEMA would have never asserted itself so strongly in national security affairs had politicians had their way. The Reagan administration, for one, would have been better served by an agency with more modest ambitions in national security affairs. FEMA's national security escapades persisted through the Bush and Clinton administrations, too. During the early 1990s, a significant proportion of Congress was opposed to a major reorganization of the agency: some wanted to abolish the agency, others wanted to ignore it, and still others benefited from FEMA's failure because they could shift blame onto the agency and away from themselves. It took the skill of an administrative politician and the

resources of a maturing profession to convince politicians that their interest lay in a major reorganization of FEMA and an infusion of new resources. After the attacks of September 11, politicians faced pressure to do something—anything—to be seen as answering the terrorist threat. The president and Congress instructed agencies across government to make terrorism their first priority and many did. FEMA took on some counterterrorism responsibility but it resisted direct pressure to take on even more, just as it had done following previous attacks on Oklahoma City and the World Trade Center.

Each of these patterns is an instance of bureaucratic autonomy, the last two more sustained and substantial than the first. In those cases, FEMA had developed a reputation for all hazards management that, with the help of an administrative politician, was seen as salient to and in the interest of key groups among the public, first and foremost disaster stricken communities. Notice that the capacity for autonomy does not originate *ex nihilo* but instead rests on the skill of an administrative politician and the resources provided by a profession and an adaptable organizing concept, which shape state and local agencies too. Though not pure philosophic autonomy, collectively the history of FEMA represents a powerful example of bureaucratic autonomy operating within a constitutional system. In other words, FEMA, like all agencies, operates within the constraints presented by its legal responsibilities to Congress, the president, and the courts, and the nature of these shape how and when it exercises autonomy. Thus, autonomy became more difficult for FEMA when it no longer reported directly to the president after it was folded into the new department following 9-11. At least soon after the creation of the department, though, it still appeared to exercise autonomy because of its reputation which worked in and around structural constraints. The agency's poor response to Hurricane Katrina may

provoke a reorganization similar to the one in 1993, a reorganization that would grant more structural autonomy to the agency. To understand bureaucracy, the true choice is not between absolute political control and perfect bureaucratic autonomy but, rather, between degrees of bureaucratic independence which promote different degrees of innovation under different circumstances.

The durability of the all hazards concept, and with it FEMA's ability to focus on natural disasters rather than be a national security agency, has been tested in the homeland security environment. There are reasons to believe that terrorism is incompatible with the definition of all hazards that existed before September 11. Terrorism lacks predictability and clear definitions: the enemy is elusive and it is unclear who or what should be involved in prevention and response. Weapons could be biological, radiological, chemical, or traditional arms, and the medical and damage control elements of response overlap with law enforcement and investigative elements. While natural disasters easily fit the all hazards idea, it is not clear how vague concepts like terrorism or homeland security would satisfy the need for an adaptable, multivocal concept and well defined core tasks. During the early 1990s, Witt may have been wise to steer clear of involvement with new national security obligations in order to make FEMA more effective at meeting the expectations of politicians and the public. The all hazards idea was a way for FEMA to protect funding and staffing for emergency management's traditional mission of preparation, response and recovery to natural and technical disasters from overcompensation for whatever the newest low probability threat might be. In 1999, it was Y2K, and after September 11 it has been terrorism. If FEMA's leaders provide too much accommodation for terrorism in the all hazards approach, the success

the agency has enjoyed since Witt's reorganization may be in jeopardy. Without future domestic terrorism, however, public support for counterterrorism and homeland security in general could wane just as it did when faced with the diminishing salience of the threat of nuclear attack during the Cold War.

Despite being buried in the Department of Homeland Security and having more claims on its resources, FEMA has remained remarkably stable and may in fact adapt the department's terrorism focus to its agenda rather than have to adapt its perspective to the department's. In other words, the all hazards concept might be a way for all agencies concerned with homeland security to reconcile diverse missions. The effort to craft a new National Response Plan signals the next stage in the development of the all hazards concept. The plan is no longer just federal, but instead is national, and it includes state and local governments as well as the federal government. The difficulty terrorism presented in crafting the plan is a sign that FEMA was not truly *all hazards* before September 11. The evidence for institutionalization of Witt's reforms is this: the logic that the agency's reputation and autonomy is due to its commitment to natural disasters is firmly embedded in the culture inside the agency and in the external groups that support it. FEMA will use all of its power to resist being transformed into a terrorist agency, even if maintaining a natural disaster focus means temporarily losing the prestige, money, and personnel that classic theories of bureaucracy predict agencies will seek.⁹²

⁹² At least through early 2005, the agency has given up power, prestige and funding for terrorism to other entities within the DHS.

Figure 1. Data from Wayne Blanchard, "American Civil Defense 1945-1975" (Ph.D. diss., University of Virginia, 1980) and Blanchard, "American Civil Defense 1945-1984," NETC Monograph, Emmitsburg, MD, 1985.

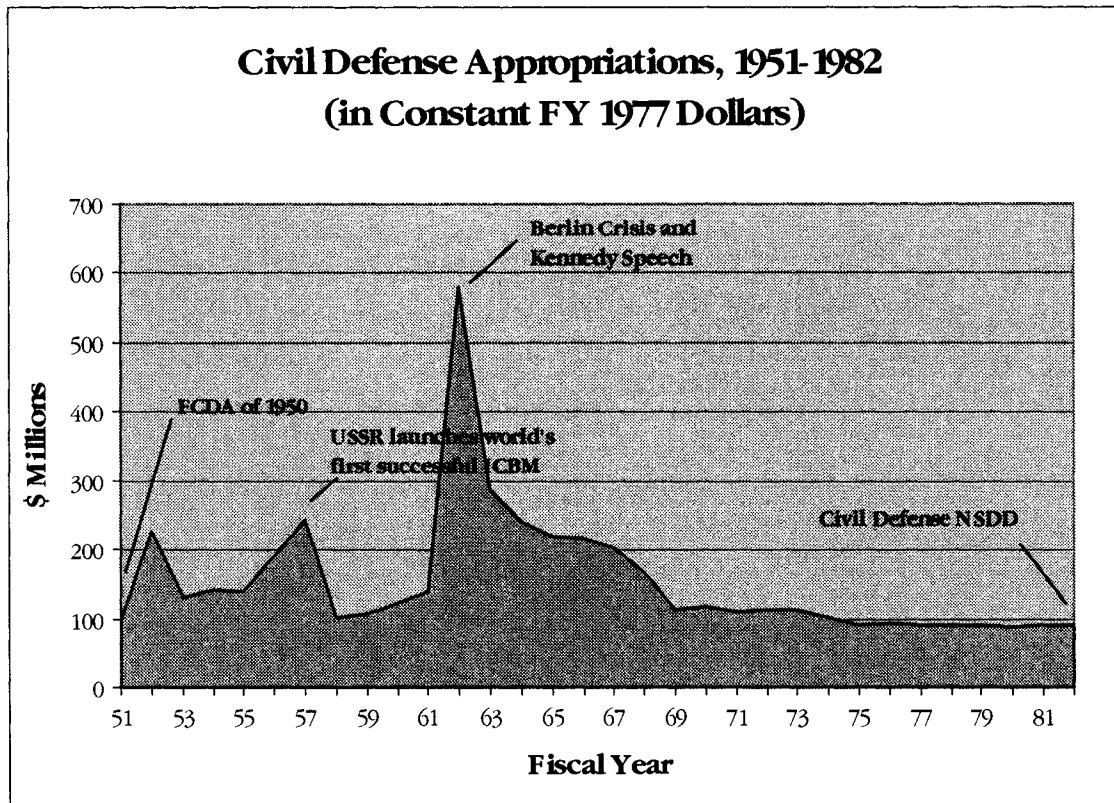


Figure 2. Data from a Lexis-Nexis search of "Major Newspaper" mentions of FEMA. The most frequent newspaper in the results was the Washington Post. Tone is easier to establish in an editorial than in a news article because an editorial is, by definition, opinionated. Tone is negative when an editorial criticizes FEMA's ability to achieve some policy goal, such as efficiency, or blames FEMA or its leaders for a political or policy failure. Where there was doubt about the tone, I coded the article as neutral.

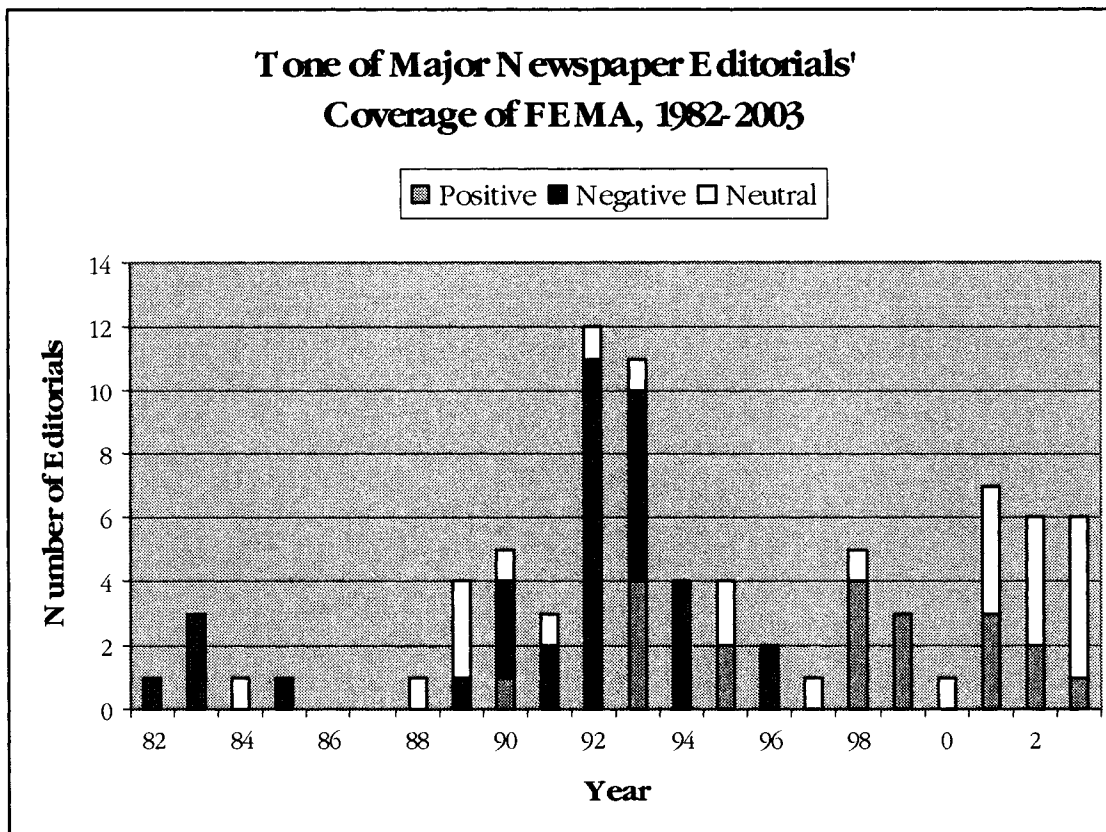


Figure 3. Source: FEMA, www.fema.gov

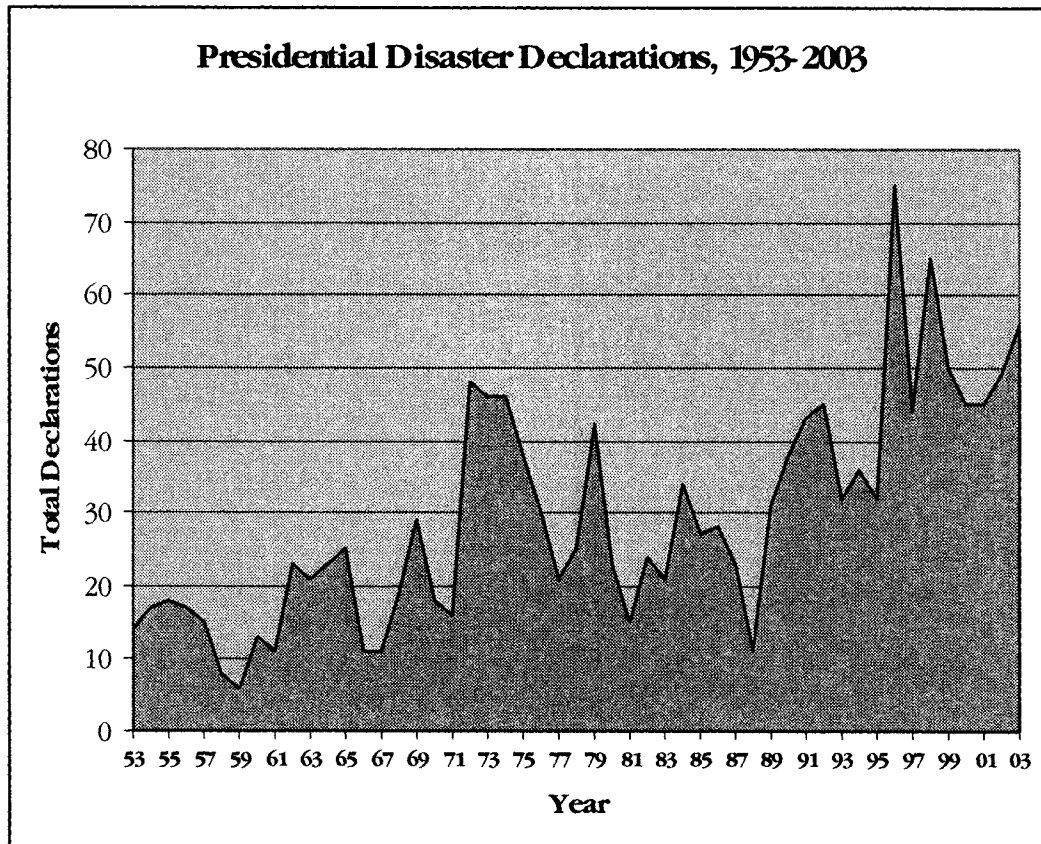


Figure 4.**Federal emergency management agency directors**

| Name | Term of Office |
|-----------------------|--------------------------------|
| * Gordon Vickery | April 1979 - July 1979 |
| * Thomas Casey | July 1979 |
| John Macy | August 1979 - January 1981 |
| * Bernard Gallagher | January 1981 - April 1981 |
| * John W. McConnell | April 1981 - May 1981 |
| Louis O. Giuffrida | May 1981 - September 1985 |
| * Robert H. Morris | September 1985 - November 1985 |
| Julius W. Becton, Jr. | November 1985 - June 1989 |
| * Robert H. Morris | June 1989 - May 1990 |
| * Jerry D. Jennings | May 1990 - August 1990 |
| Wallace E. Stickney | August 1990 - January 1993 |
| *William C. Tidball | January 1993 - April 1993 |
| James L. Witt | April 1993 - January 2001 |
| *John Magaw | January 2001 - February 2001 |
| Joe M. Allbaugh | February 2001 - March 2003 |

* Acting director

Figure 5.**Major professional emergency management associations and their founding dates**

National Fire Protection Association (1896-)

National Emergency Management Association (1974-)

(NEMA began as a civil defense organization, but gradually devoted itself to natural hazards and reduced its role in civil defense)

International Association of Emergency Managers

Began as U.S. Civil Defense Council (1952-1983). Then became the National Coordinating Council on Emergency Management in 1983. Then renamed the International Association of Emergency Managers in 1998

The American Civil Defense Association (1962-)

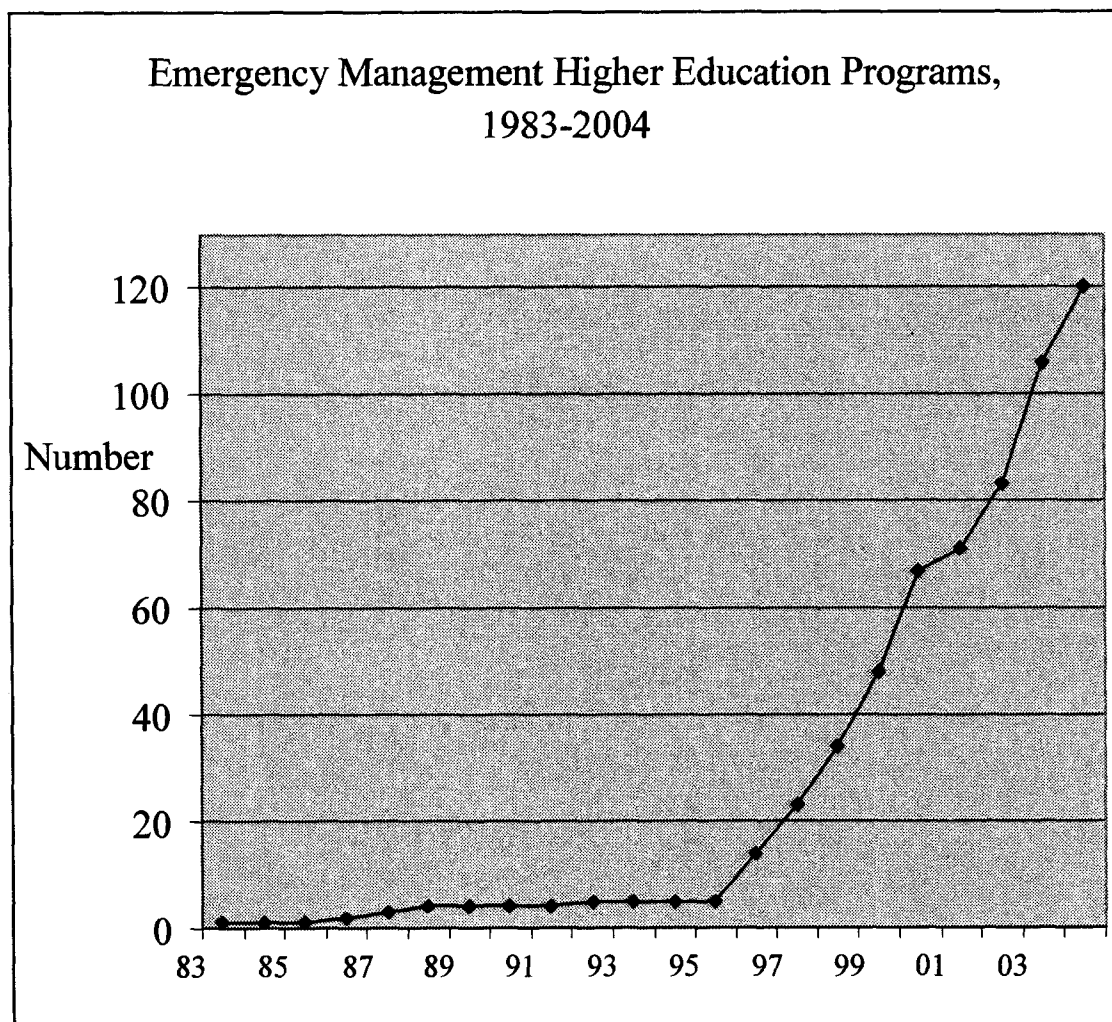
Has refashioned itself as a homeland security and counterterrorism defense association

American Strategic Defense Association (1970-)

Natural Hazards Center (1976-)

National Voluntary Organizations Active in Disaster (1979-)

Figure 7.



Source: Wayne Blanchard, FEMA Higher Education Project, (presentation materials) June 27, 2005

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**“Withering on the Vine” Yet Not Uprooted:
Reputation and Autonomy in the CIA and FBI**

Why, despite notorious intelligence failures and many serious proposals for reform, have the CIA and the FBI maintained the same basic mission and organizational structure from the 1970s until at least 2001? Why were both able to resist major reorganization and, when resistance proved impossible, to ensure that reforms gave them more authority rather than less? Law, presidential and congressional preferences, and bureaucratic politics each helped to frustrate change. Ultimately, however, the CIA and FBI both remained generally static compared to other agencies during the same period because they possessed enough autonomy to resist major change. Experts and politicians agreed on a surprising number of reforms, but the major intelligence agencies were able to dilute them when it came time to debate bills or implement policies. Though lawmakers possess ultimate legal authority over bureaucracies, in practice autonomous agencies have a surprising amount of power. Instead of following reforms proposed from the outside, the CIA and FBI followed their own priorities during the 1980s and 90s and frustrated proposals that deviated from their preferences. During this period the CIA was concerned about the threat of nuclear, biological, chemical, and radiological (NBCR) weapons in the hands of malicious states, especially the former Soviet Union. Terrorism, meanwhile, was one of a host of subsidiary concerns for the agency that included topics as broad as “environmental, natural resource and health issues.”¹ At the same time, the

¹ US House. 1992. Joint Hearing of the House and Senate Select Committees on Intelligence, “Intelligence Reorganization,” 102nd Cong, 2nd sess. 1 April. Testimony of Robert Gates.

FBI structured itself around drug offenses and white collar crimes, not terrorism. Even after 9-11, despite public announcements heralding the bureau's new terrorism focus, the bureau remained oriented to its prior missions.

This account of the CIA and FBI's relative autonomy in the face of mounting criticism does not lay responsibility for 9-11 at the feet of these agencies, nor does it prove that these agencies made poor bets about where the greatest threats to the US might lie. Rather, this account points to the limits of reform led by politicians and experts. Autonomous agencies are by and large less amenable to the changing preferences of politicians and experts than are non autonomous ones. Consider perhaps the greatest example of general interest policy change in the last 30 years—deregulation of the airline and trucking industries (Derthick and Quirk 1985). The Federal Aviation Administration, as chapter eight shows, is a relatively *non*-autonomous agency and it along with other government bodies swiftly adopted deregulatory policies once the expert consensus and politicians' preferences became clear.²

Structural features alone, however, do not doom autonomous agencies to stasis or “path dependence” because human agency matters. Leaders in the CIA and FBI attempted to set a new agenda after the fall of the Soviet Union by monitoring the spread of mass casualty weapons and by assessing major military, economic, and social trends. The basic organizational structures of the CIA remained much the same but the agency attempted to perform new tasks for an increasingly diverse array of consumers, not just the president and Congress but specialized congressional committees, corporations, non-profit associations, and non-governmental organizations. At the same time, commission

² The consensus in Congress was more immediately important than the consensus in the FAA. Nevertheless, the agency swiftly adapted to the new environment.

after commission, as well as a few proposals for reorganization led by influential congressmen, attempted to reorient the agencies toward new threats, including international terrorism. Needless to say, these had only limited effects until the crisis of 9-11 and the influential commission of the same name. Even then, the agencies reoriented to address terrorism to a more limited degree than their public statements might suggest. The recent histories of the CIA and FBI are instructive in thinking about how reformers ought to approach administrative innovation. Rather than charter another commission or risk passing a law only to see it diluted in the implementation stage, would-be reformers of autonomous agencies should seek new, more indirect avenues for change: influencing the collective understanding of what intelligence, for example, means; working with civil servants inside an agency to reorient its tasks; and establishing a competing agency that might either fill new functions or reinvigorate the older agency.³

In essence, I provide a standard functionalist bureaucratic politics model of the CIA and FBI, with a twist. In the classic formulation, functionality—the tasks performed effectively by an agency—leads to autonomy and independence, which lead to stasis and eventual dysfunction (Downs 1967, 198-200). The classic model describes how criticism then follows dysfunction and leads to change, not unlike in the reputational model described in chapter two. My analysis, in contrast, builds on the work of dissenters to the classic model to understand how dysfunctionality can frustrate change. Some scholars have noted that dysfunctionality can breed dysfunctionality; effective agencies are likely to earn some deference from political leaders but once they achieve independence, as Graham Allison (1999, 147-170) argues in his seminal study, bureaucracies stagnate in

³ The 9-11 Commission had something like this in mind when it recommended the creation of an additional, exclusively open source intelligence agency. The agency would use only sources available in the public record.

standard operating procedure. Agencies, in this model, are not likely to make changes that would disadvantage any unit of the bureaucracy and, instead of innovating, agencies bargain to increase budgets, power, and authority.⁴ Rather than blaming standard operating procedure, however, my study points out that reformers who wanted the CIA to address terrorism proceeded in an ineffective way because they did not understand how to change an autonomous agency. Publicly criticizing the agency through the media and through expert studies—and therefore chipping away its reputation—would not necessarily breed reform. This chapter first seeks to explain how the CIA and FBI's autonomy allowed the agencies to largely set their own agendas, despite weak reputations, contrary to two conventional models of bureaucratic behavior.

The second goal of this chapter is to trace attempts to encourage these agencies to innovate to address new challenges, especially international terrorism. At the heart of this analysis is their failure to sufficiently innovate to make international terrorism a priority and find effective means to combat it, both before and after 9-11. Both the CIA and FBI were without the resources to understand and predict not just the attacks of 9-11 but a host of other terrorist incursions in the Middle East, Asia, and Europe. My study highlights a problem with the CIA and FBI that goes beyond what Amy Zegart (1999) describes as “flawed by design”—the contradictory missions and tasks brought on by compromises by the agencies' various creators.⁵ Instead, the source of the agencies'

⁴ Cyert and March (1963, 278-79) find that sometimes failure breeds more failure but failed to identify the conditions which cause some agencies to respond to failures with substantial reorganization while others remain stagnant. They provide the unsatisfying conclusion that “firms will innovate both when successful and unsuccessful.” Another possible exception occurs when agencies are politicized. For instance, in recent years the Attorney General has limited the powers of the Department of Justice's Civil Rights division.

⁵ Regulatory agencies, especially, are designed as compromises between opposing factions and aim at diffusing political disagreement rather than effective regulation. As Terry Moe (1989) writes, “In the politics of structural choice, the inevitability of compromise means that agencies will be burdened with structures fully intended to cause their failure.” The CIA was originally hampered by conflict between two cultures: the officers charged with coordinating

failure to innovate lies in their structural features as entrenched and relatively autonomous agencies which were not the product of conscious design. Since the 1970s, politicians have agreed on a number of reforms that then stalled because the agencies made them too costly for politicians to undertake successfully, at least until after 9-11.

This account concerns the limits of reform in a particular type of agency. Therefore, it begins with a description of the CIA's weak reputation among the public, the media, and policymakers. Unlike, for example, the criticism suffered by FEMA that led to a major reorganization, the CIA's dwindling reputation did not induce reform. The latter's autonomy explains the difference between the two organizations, and the next section describes the character of the CIA's autonomy. I follow with a description of how the agency used its autonomy to resist the consensus for change and to focus on other threats, primarily mass casualty weapons in the hands of states. To strengthen my case, I present the most powerful evidence for the contrary hypothesis, that the CIA did not possess autonomy and that it was on balance an innovator. In the final analysis, however, the preponderance of the evidence shows that the CIA used its autonomy to resist major change from its Cold War structures. Post-World War II intelligence and counterterrorism corresponds to a narrative of stasis better than to one of development. I follow with a brief sketch of the FBI, which fits roughly the same pattern as the CIA.

I conclude with a discussion of the implications of bureaucratic autonomy for democratic accountability and for other attempts at reorganization. Studying core intelligence and law enforcement agencies sheds light on an alternate source for bureaucratic autonomy in the nature of an agency. It also addresses one of the key

foreign intelligence and the former employees of the Office of Strategic Services who managed covert operations during World War II (Wilson 1989, 56-58).

puzzles in recent public policy, explaining how the nature of federal intelligence and law enforcement agencies makes major reform and reorganization difficult from the outside.

The CIA's Reputation

Ever since its creation, the CIA's mission has made the agency suspect. The Joint Chiefs of Staff criticized William Donovan's 1944 plan for a peacetime central intelligence organization for its capacity to engage in "subversive operations abroad" (Rudgers 2000, 22-23, 93-108).⁶ A variety of publications—*Time*, *Life*, *Harper's*, *Virginia Quarterly Review* and *Yale Review*—reinforced the view that the business of intelligence was inherently suspicious. In the postwar environment, the world's second oldest profession could not escape close public scrutiny.⁷

Some intelligence agencies sought publicity, such as H.O. Yardley's World War I code breaking unit, while others, such as U-1 which existed from 1915 to 1927, were not acknowledged until after they had been abolished (Yardley 1931; Jeffreys-Jones 2002, 60-80, 99-114; Kahn 2004). Throughout the history of American intelligence, however, colorful characters—bureaucratic entrepreneurs of a sort—generated both acclaim and controversy.⁸ The usual pattern, which fits Allan Pinkerton, Yardley, and J. Edgar Hoover, among others, was for the intelligence leader to build a good reputation during the first part of his career but during his later years and after retirement draw criticism

⁶ In the first weeks of February 1945, newspaper reporter Walter Trohan published a series of articles about Donovan's "Super Spy System," including the entire text of Donovan's November proposal, setting off a political and public furor. Rudgers 25-29.

⁷ Though the CIA was created as part of the 1947 National Security Act, intelligence has been a part of American government since George Washington, who was a master of secret intelligence (Pennypacker 1939; Knott 1996, 4-11). After the American revolution, spycraft capabilities lagged until the Civil War when the exigencies of war and the zeal of the Pinkerton Detective Agency met a demand for military and corporate information. During the 19th century most state and local police forces were weak, and private agencies were recruited to handle major law enforcement investigations until these agencies blurred the lines between public and private and morphed into federal forerunners of the FBI and Secret Service.

⁸ Bureaucratic entrepreneurs link agencies to policymakers and to social groups (Mintrom 2000; Teske and Schneider 1994).

from revisionists who either blamed him and his agency for intelligence failures or for flouting civil liberties. It is a truism that a bureaucratic entrepreneur who cultivates a larger than life persona will attract criticism from revisionist skeptics.⁹ Intelligence, however, inspires greater criticism and debate than other fields because its tasks are inherently sensational, collaborative, and secretive. That “gentlemen don’t read each other’s mail” is a deeply felt sentiment among the public, and cultural biases hinder efforts to examine what intelligence agencies do.¹⁰

The reputation of the modern CIA was forged in the debate over America’s intelligence capabilities during the return to peacetime after World War II. Congress, the Department of Justice, and Navy Secretary James Forrestal, among others, agreed that America’s prewar intelligence apparatus was inadequate; existing organizations failed to recognize the danger the Japanese posed to Pearl Harbor because they lacked sufficient human intelligence and analytical capabilities to process large volumes of information (Hoopes and Brinkley 1992, 310-314; Rudgers 2000, 151, 166; Hammond 1961).¹¹

Postwar congressional hearings emphasized that the uncertain international situation demanded an institutional response.¹²

⁹ James Lee Witt, director of the Federal Emergency Management Agency from 1993-2001 is one of the most widely-celebrated bureaucratic entrepreneurs in recent memory but even his legacy is subject to revisionist assessment. See, for example, Rutherford H. Platt and Claire B. Rubin, “Stemming the Losses: The Quest for Hazard Mitigation,” 88-108 in Platt (1999).

¹⁰ The comment is usually attributed to Secretary of State Henry L. Stimson on the occasion of the abolition of the Cipher Bureau in 1929. See Lord (2003), 255.

Cultural biases are not the only obstacle to an accurate understanding of intelligence history. Pinkerton’s legacy, for example, is obscured by two events which prevented an accurate account of his activities: a severe stroke at age fifty that may have damaged his memory and the great fire of Chicago that destroyed four hundred volumes of Pinkerton records in 1871 (Horan and Swiggett 1951).

¹¹ Wohlsetter (1962) blames the intelligence agencies for failing to separate the signals from the noise in the Japanese buildup to their attack on Pearl Harbor. Though the classic work intelligence shortcomings leading up to the attack on Pearl Harbor, her study is not sufficiently critical of Franklin Roosevelt for failing to provide political leadership in addressing the Japanese threat.

¹² See, for example, legislation establishing CIA in US Senate, Committee on Armed Services, National Defense Establishment . . . , 80th Cong., 1st sess., pt. 1 (Washington DC, USGPO, 1947); Congressional Record 93, no. 49 (14 March 1947), 2139-2140. Also see Rudgers (2000). For Illinois Republican Ralph Edwin Church, as for many in Congress, Pearl Harbor was “proof” that the United States needed a CIA (Williams 1975, 144). In 1946 *Time* claimed

The US moved ahead with establishing the CIA as part of the 1947 National Security Act which also created the Joint Chiefs of Staff and the National Security Council.¹³ From its inception, the CIA was enlisted in the Cold War; it had some early success in tracking communist movements abroad, and some of its failures at home were unavoidable. Roy Godson (1995, 80) claims that Soviet agents penetrated the US en masse in the 1950s; there might have been as many Soviet spies in the US illegally as there were CIA agents assigned to counterintelligence. Much of the blame for the ratio should be assigned to America's open society rather than to poor agency performance. "With its relatively open borders, the United States was easily penetrated by illegal immigrants," Godson writes, "and after they entered there was almost no control over their movements, financial transactions, or communications abroad." Soviet spies in the 1950s, it must be remembered, did not constitute a grave threat because they were not as lethal for Americans as were Islamist terrorists of the 21st century.

It is supremely difficult to gain enough information to effectively rate intelligence agencies. The CIA is at a major disadvantage when comparing its reputation to that of other core agencies because its successes are not well publicized while (some of) its failures are broadcast many times over, the subject of congressional committee hearings and media headlines.¹⁴ By one measure, the agency has done well in providing

that the US could no longer afford to be the only great power without a strong peacetime intelligence agency: "That historical innocence, which ended with the fiasco at Pearl Harbor, is now gone." See "Intelligence," *Time* 4 February 1946, 24. Quoted in Rudgers, 91.

¹³ The legislative history of the 1947 National Security Act is summarized in *Congressional Quarterly*, 1947 3:457-63.

¹⁴ The CIA was sometimes held responsible for failures which should be laid at the feet of policymakers. Nevertheless, the CIA was blamed and reputation, not objective assessment, is key to my model. The CIA agency earns good marks for the efficiency of its recruitment system, for example, but that is far different than one that meets larger substantive goals. The CIA has had trouble with the latter—a history of insular recruitment practices, questionable training, and difficulty recruiting effective foreign operatives. The American Customer Satisfaction Index rates the CIA's employment recruitment section as among the federal government's best. (ACSI, December 14, 2004, <<http://www.theacsi.org/government/govt-04.html>>) The CIA was able to take advantage of the spike in interest in government service after 9-11, and the agency received almost 100,000 job applications between September 2001 and June 2002, nearly triple the number in the same period for the previous year. (Jeffreys-Jones 2002, xiii). For criticism

intelligence in support of tactical operations such as negotiations. A far more common measure of the agency's success or failure, however, has been its ability to predict major geopolitical events and assess regional stability. On this score, the agency's record has suffered. The CIA has been held responsible for the failure to predict several events: the North Korean attack on South Korea in 1950, the mood and politics of Cuba in the late 1950s and early 1960s; and the recent nuclear weapons capabilities of Pakistan, North Korea, and India. More recently the agency has been blamed for the failure to appreciate the scope and nature of the Al Qaeda threat and for the incorrect estimates about Iraqi nuclear and biological weapons capability and the post-Iraq war insurgency.¹⁵ The agency's alleged involvement in covert operations at home and abroad, sometimes to overthrow democratic governments, also damaged its reputation.¹⁶

In some cases the agency was caught unaware. India and Pakistan's nuclear tests were a surprise, as were Al Qaeda bombings in east Africa and the attacks of September 11, 2001. The agency was particularly ill-suited to provide information on terrorists since most of its organizations analyzed the threat from states. The CIA lacked a substantial division to collect information about non-state groups, according to two intelligence officials.¹⁷ In addition to deficiencies at the level of intelligence-gathering, the agency

of the agency's recruitment and training practices from the perspective of a former agent, see Lindsay Moran, *Blowing My Cover: My Life as a CIA Spy* (New York: Putnam, 2004).

¹⁵ CIA Director George Tenet's (alleged) statement that the agency possessed a "slam-dunk" case that Iraqi Dictator Saddam Hussein had unconventional weapons—first reported by Bob Woodward (2004) and later proven widely overconfident at best—is perhaps the most notorious of the agency's recent missteps.

¹⁶ The CIA's Counterintelligence Staff participated in "CHAOS", a project which from 1954 to 1973 monitored the mail exchanged between the Eastern Bloc and the United States, opening more than 215,820 letters and photographing more than two million envelopes. This was later considered by many to be in violation of prohibitions against CIA operations within the US (Godson, 88). Critics of the agency blamed it, with varying degrees of evidence, for participating in the overthrow of democratic governments in Guatemala, Brazil, Chile, Guyana, Iran, Indonesia, Iraq, and Congo.

¹⁷ In practice, regional specialists were assigned responsibility for monitoring non-state groups inside particular countries. For instance, analysts routinely produced forecasts about non-state groups based on the "Factions" model for assessing political stability (Feder 1987). Critics charge that this arrangement was not sufficient to fully assess these groups. (From an interview with an intelligence observer and confirmed in an interview with an intelligence official.)

was not well equipped to advise policymakers about terrorism according to Richard Shultz, director of security studies at the Fletcher School at Tufts University. “In the run up to 9-11,” he said, “there was no one in the CIA or DIA [Defense Intelligence Agency] asking the question could there be an insurgency in Iraq after the Bathist regime and, if so, who might join the insurgency.”¹⁸

In other cases the agency overstepped its bounds: it illegally monitored US mail for decades and more recently in Iraq the agency was accused of violating the Geneva Conventions.¹⁹ In yet other instances, the agency had intelligence that was simply incorrect.²⁰ President Clinton launched a cruise missile strike on a Bin Laden-affiliated chemical weapons factory in Sudan that turned out to be a pharmaceutical factory, and the following year NATO airplanes acting with CIA information mistakenly bombed the Chinese embassy in Belgrade during the Kosovo war.²¹ More recently, former CIA Director George Tenet failed to excise a false statement about Iraq’s nuclear intentions from President Bush’s State of the Union Address, and the CIA was found to have relied on dubious sources for information on Iraq’s capabilities.²²

¹⁸ Richard Shultz, phone interview, 7/26/04.

¹⁹ Dana Priest, “Memo Lets CIA Take Detainees Out of Iraq Practice Is Called Serious Breach of Geneva Conventions,” *Washington Post* 11/24/04, A1. “At the request of the CIA, the Justice Department drafted a confidential memo that authorizes the agency to transfer detainees out of Iraq for interrogation -- a practice that international legal specialists say contravenes the Geneva Conventions.”

²⁰ The intelligence community, as a whole, has a high ratio of correctly identified targets versus errors. The question, however, is whether the success ratio is high enough. The agency made several costly targeting errors in the 1990s, leading military generals in the first Iraq war, at least, to distrust the agency’s assessments. See US House of Representatives, “The Impact of the Persian Gulf War and the Decline of the Soviet Union on How the United States Does Its Defense Business,” Hearings Before the Committee on Armed Services, 102nd Cong., 1st Sess., Feb-Jun 1991 (Washington DC, US Government Printing Office, 1991) 930.

²¹ A few voices still argue that the pharmaceutical plant was, in fact used to produce chemical weapons. And a very few, including pundit John McLaughlin, make the perverse case that the US could not have misidentified a building in Kosovo and must have *meant* to attack the embassy. Vernon Loeb, “CIA Chief Takes ‘Responsibility’ for Bombing of Chinese Embassy,” *Washington Post*, 7/29/99.

²² The Robb-Silberman commission found that the CIA provided poor information about the conditions in Iraq before the US invasion there. See the Report of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (Washington, DC: GPO, 2005). The agency did get some things right, however, including, apparently, the questionable credentials of Ahmed Chalabi, the Iraqi opposition leader at one time favored by Pentagon leaders. John Solomon, “Tenet Takes Responsibility for False Iraq Intelligence,” *Associated Press*, 7/11/03; Michael R. Gordon, “Catastrophic Success,” *New York Times*, 11/20/04.

This litany has placed the CIA among the least well-respected federal agencies.²³ By 1997, the CIA's inspector general noted that scandals and perceived failures had taken their toll: "An obvious and perhaps unavoidable side effect of recent revelations about CIA failures and mistakes has been substantial erosion in public support for the work of US intelligence agencies."²⁴ In 2001, 57 percent of the public had a positive view of the CIA according to the Harris Poll, compared with 79 percent who had a positive view of the Centers for Disease Control or even 68 percent who had a favorable view of the FBI.²⁵

[Insert figure 1 about here]

Members of Congress, military leaders and academic experts, even more than the public, have lacked confidence in the agency. By the terrorist attacks of 2001, the CIA had garnered a reputation for producing analyses of very mixed quality and for pushing the bounds of civil liberties. Former Navy Secretary John Lehman, looking back on his service on the 9-11 Commission, recalled that he uncovered many surprises but one thing he expected was poor performance from the intelligence agencies. "Those of us who had

²³ To some extent, the blame for all of these failures lies at the feet of policymakers, not the CIA. Intelligence estimates are predictions provided to policymakers who are responsible for marrying the estimates with an understanding of the value and cost of particular actions. Politicians bear much of the responsibility, too, for the times when the CIA has overreached its authority to engage in covert operation or surveillance at the request of the White House or agency directors. At the highest level, policymakers are responsible for the organizational structures that provide intelligence; if these are not structured to identify and track, say, terrorist groups, then policymakers should be blamed for failing to identify the threat and to sufficiently direct administration (See Federalist #63 and #70.). The structure and history of the intelligence agencies, however, make change difficult. Politicians would be well served if they understood how the sources of bureaucratic autonomy can frustrate reform.

²⁴ Frederick P. Hitz, "CIA in the 21st Century," Harvard Law School Forum, Cambridge, MA, November 11, 1997. <http://www.law.harvard.edu/students/orgs/forum/Hitz.html> accessed 4/5/05.

²⁵ The Harris Poll was conducted between October 21 and 27, 2003 among a nationwide cross-section of 2,056 adults. Error +/- 3. The Gallup poll gives similar positive ratings of the CIA.

served in the government knew that you could pretty well count on our intelligence community to be wrong in assessing many potential threats.”²⁶

Because of the widespread perception of intelligence failure, policymakers proposed major organizational reform of the CIA countless times. The most famous reforms were those surrounding the investigations of the Church Committee in the 1970s which grew out of a series of scandals. The CIA was blamed for toppling democratic governments, most famously (and perhaps unjustly) in a coup in Chile in which the country’s president, Salvador Allende, died mysteriously. The agency drew even more fire for alleged domestic spying in 1974: the front page of the *New York Times* claimed that “The CIA, directly violating its charter, conducted a massive illegal domestic intelligence operation during the Nixon administration against the anti-war movement and other dissident groups in the United States.”²⁷ A month later, the Senate established a committee under the chairmanship of Frank Church to study what were referred to in the CIA as the “family jewels”: the covert operations that were carried out at the margins of domestic and international law. The House followed suit with a more measured commission headed by Otis G. Pike. The Pike Commission was as sober as Church was hyperbolic, but Church’s statements, and their carnival of self-promotion, were repeated countless time in the media, including the assertion that “The agency may have been behaving like a rogue elephant on the rampage.”²⁸ Both the Church and Pike committees produced recommendations for reform, some of which would be echoed by other studies decades later. The most notable reform was the creation of permanent oversight

²⁶ John F. Lehman, “America After 9/11Remarks at the FPRI Annual Dinner,” (given 11/9/04), FPRI Wire 12:3, accessed <<http://www.fpri.org/fpriwire/1203.200412.lehman.americaafter911.html>>.

²⁷ Seymour Hersh, “Huge CIA Operation Reported in U.S. Against Anti-War Forces, Other Dissidents in Nixon Years,” *New York Times*, December 22, 1974

²⁸ Richard W. Shryock, *International Journal of Intelligence and Counterintelligence* ,13:3, 10/1/00, 384 - 391

committees in the House and Senate which institutionalized a process of congressional scrutiny over intelligence activities, though later it would appear that these committees were as much advocates for the intelligence agencies as they were watchdogs.²⁹

The agency's reputation suffered further in the 1980s and 90s under both Republican and Democratic administrations. CIA directors lost face over involvement in the Iran-Contra scandal and the agency was blamed for providing bad intelligence during the 1991 Gulf War. General Norman Schwarzkopf complained to a joint hearing of the House and Senate Armed Services Committees on June 12, 1991 that intelligence analysis had been "caveated, disagreed with, footnoted and watered down to the point that the estimate could have supported any outcome."³⁰ American soldiers destroyed ammunition depots which, unbeknownst to them, contained chemical weapons that may have harmed soldiers in the area. Investigations later revealed that the CIA had known about the chemicals, revelations that produced outrage from the military and Gen. Colin Powell, chairman of the Joint Chiefs of Staff at the time.

The agency's reputation further ebbed in 1994 when the FBI arrested CIA officer Aldrich Ames and charged him with passing information to the Soviet Union, exposing hundreds of American agents and spreading disinformation to the US government. After the Ames affair, CIA morale was "lower than death valley," and it would sink even lower after Bush left office.³¹ The Clinton administration's first major foreign policy intervention was a peacekeeping effort in Somalia that ended badly, in part because of the

²⁹ Jeffreys-Jones (2002, 224) notes that by 2000 oversight committees were criticizing the executive branch for underfunding the intelligence agencies. In May 2000, the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence criticized the Clinton administration for not adequately funding the CIA and other intelligence agencies. (Washington Post, May 28, 2000.)

³⁰ US House of Representatives, "The Impact of the Persian Gulf War and the Decline of the Soviet Union on How the United States Does Its Defense Business," Hearings Before the Committee on Armed Services, 102nd Cong., 1st Sess., Feb-Jun 1991 (Washington DC, US Government Printing Office, 1991) 930.

³¹ Tim Weiner, New York Times, January 1, 1995.

CIA's failure to identify the location of warlord Muhammad Farah Aideed (Bowden 2000, 22-27). Partly as a result of its lagging reputation and partly because of pressures for fiscal responsibility, the CIA endured budgetary and personnel cuts during the 1990s, and five directors cycled through the agency between 1991 and 1997 (Treverton 2001).³²

Since the agency's heyday during the height of the Cold War it has been publicly blamed for scandal after scandal even though it may be no worse at the tasks it was originally created for. A certain amount of foreign espionage in the US is inevitable, and the agency was successful at monitoring Soviet states. Detailed studies of intelligence agencies before World War II, with access to unclassified records unavailable for students of contemporary agencies, show how often and how inevitably error seeps into intelligence analysis (May 1984). In the postwar era, an increasingly scandal-hungry media magnified these errors, and the agency was a convenient object of blame for politicians who wanted the public to find fault with the CIA rather than with themselves. There were also more areas in which the agency could make errors; it never developed the capacity to understand the behavior of small states and non-state groups to the degree that it was able to track Soviet behavior. This confluence of factors caused the agency's reputation to spiral downward and policymakers as well as the public distrusted its work.

³² The CIA directors, unlike most of the world's spy chiefs, sought publicity to build their reputations. Like a jolt of caffeine, however, the effect of a charismatic leader on the perception of the agency dissipated soon after he stepped down, often because of the revisionist histories which surfaced when the former leader no longer monopolized the public stage. Allen Dulles, director from 1953-1961, was a tireless promoter of the mystique of spycraft. He edited a collection of spy novels and regaled friends with tales from the clandestine world at lavish dinner parties (Dulles 1968). He was close to leading politicians and journalists, including his brother, Secretary of State John Foster Dulles, and *New York Times* publisher Arthur Sulzberger. Other CIA officials were great promoters of the agency, including former advertising executive Edward Lansdale; he helped defeat Philippine insurgents and his showmanship while a spy was the inspiration for Graham Greene's ironically titled *The Quiet American* (Ambrose and Immerman 1981, 170-178). (Rhodri Jeffreys-Jones (2002, 162, 268) claims that showmanship and self-promotion are what distinguishes American intelligence from more obscure agencies in other countries). While theatrics made the CIA visible to the American public and might have improved the agency's image at home for a short time, prominent intelligence failures and public criticism of the agency harmed its reputation.

By 1998, in the words of former CIA Inspector General Frederick P. Hitz, it was “left to wither on the vine. The CIA is still there, but it no longer has the influence it once had.”³³

The agenda for reform amidst autonomy

In two common models of bureaucracy, a dwindling reputation would lead to reorganization. The classic model portrays an agency whose performance deteriorates to the degree that it suffers serious failures and severe criticism, which prompts change and reorganization and, ultimately, better performance (Downs 1967, 198-200). In a similar vein, the reputational model outlined in chapter two describes agencies that depend upon reputation for their autonomy. These agencies are so closely connected to the social groups on which their reputation depends that they often anticipate when their reputation might suffer or they may immediately recognize a decline in esteem and innovate to meet changing needs.

The CIA follows neither of these models. Instead, its poor reputation existed alongside autonomy. Like most agencies, the CIA had its own ideas about what it should do, and it sought autonomy to implement these ideas. Herbert Emmerich (1971, 17) noted in a classic study that “[t]here is a persistent, universal drive in the executive establishment for freedom from managerial control and policy direction.” Agencies are autonomous when they act independently, though not necessarily in defiance, of their political superiors for a sustained period.³⁴ Despite its poor reputation among the public and among policymakers, the CIA resisted major proposed reforms during the 1990s (and

³³ Quoted in Jeffreys-Jones, 268

³⁴ Barnett and Finnemore (2004) define autonomy in a similar way, as multiple periods in which an institution acts independently, though not necessarily defiantly. Carpenter (2001, 17) notes that autonomy occurs when agencies “can bring their political legitimacy to bear upon the very laws that give them power.” Also see Khademian (1996).

earlier) and moved to implement the policy reforms the agency prioritized: monitoring mass casualty weapons proliferation and providing more detailed environmental and economic reports. These took precedence over the agenda for reform recommended repeatedly by expert commissions and leading figures in Congress.

To ascribe the CIA's stasis to autonomy alone would be premature. Like many defense agencies, the CIA underwent budget cuts and personnel turnover during the late 1990s. Could it have experienced sclerosis due to factors other than autonomy? The analysis that follows attempts to account for other possible explanations and, in the end, finds them wanting. Demonstration of the agency's autonomy consists of three steps: listing the proposals for reform on which there was wide consensus during the 1990s but which were never fully implemented; showing how the CIA had priorities other than these reforms through analysis of congressional testimony and other CIA statements; eliminating other possible explanations for the lack of major reform of the agency during the 1990s, including legal constraints, congressional and presidential preferences, and budget cuts.

Throughout the 1990s, politicians and experts advocated a variety of reforms, all aimed at improving the CIA's ability to function in a post-Cold War environment. The remarkable agreement among these ideas suggests a broad consensus in the expert community that the CIA was able to frustrate in practice; few of these reforms, as described below, were enacted. From 1992 to 1996 Congress twice attempted and then aborted major intelligence reforms. During the same period four major studies recommended change: a presidential panel initiated by Congress; a House Intelligence Committee study, the Aspin-Brown Commission; a Council on Foreign Relations task

force; and a 20th Century fund report.³⁵ After 1998, the policy community focused on terrorism and the proliferation of nuclear and other highly destructive weapons. Three major studies counseled reform—the Bremer Commission, the Gilmore Panel, and the Hart-Rudman Commission.³⁶ These seven studies and many minor ones conducted over a span of decades agreed on how to reform at least five major areas.

First, all of the studies bemoaned the lack of organization and coordination in the intelligence community and proposed greater centralization as a solution. The most common suggestions were to separate the position of Director of Central Intelligence from the CIA director, to give the CIA more power over the intelligence community, or to create an intelligence “czar” with comprehensive budgetary and organizational authority. The DCI was originally created to coordinate efforts across intelligence agencies, but in reality the director controls only 15 percent of the intelligence budget (the Secretary of Defense controls the rest) and has little direct authority over the agenda of agencies other than the CIA.³⁷

³⁵ Amy Zegart (2004, 35-36) reviews these commissions and comes to slightly different conclusions.

³⁶ These are known, more formally, as the National Commission on Terrorism, The Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, and the US Commission on National Security in the 21st Century. In addition, the National Performance Review issued a report analyzing the intelligence community. See: Best, Richard A., Jr. *Proposals for Intelligence Reorganization, 1949-2004*. Washington, DC: Congressional Research Service, Library of Congress, 29 Jul. 2004. <Available at: <http://www.fas.org/irp/crs/RL32500.pdf>>;

U.S. Congress. House. Permanent Select Committee on Intelligence. Staff Study. *IC21 - Intelligence Community in the 21st Century*. Washington, DC: 9 Apr. 1996. <<http://www.access.gpo.gov/congress/house/intel/ic21/index.html>>; Walter Pincus, “Untangling the Spy Network’s Webs: Rep. Combust Wants CIA Clandestine Operations Separate and NRO Split,” *Washington Post*, 3/5/96, A13; Tim Weiner, “Proposal Would Reorganize U.S. Intelligence Agencies,” *New York Times*, 3/5/96, A20.

Commission on the Roles and Capabilities of the United States Intelligence Community. *Preparing for the 21st Century: An Appraisal of U.S. Intelligence*. Washington, DC: GPO, 1996; Loch K. Johnson, “The Aspin-Brown Intelligence Inquiry: Behind the Closed Doors of a Blue Ribbon Commission,” *Studies in Intelligence* 48:3 (2004): 1-20; Jeffrey R. Smith and Walter Pincus, “Expert Panel Wants Intelligence Director to Hold More Power,” *Washington Post*, 3/1/96, A15; Tim Weiner, “Commission Recommends Streamlined Spy Agencies,” *New York Times*, 3/1/96, A13.

³⁷ Regardless of the changing legal relationship between the DCI and the president, the Director of Central Intelligence served at the pleasure of the president. That arrangement turned the Director and his staff into the president’s “personal information service at the center of the Government” according to Arthur B. Darling’s observation in 1953 (1990, 188). The CIA’s independence, then, is all the more remarkable.

The idea for separating the DCI from the CIA had been around for years and was part of the Pike Committee's proposals; the efforts to create an intelligence czar appeared repeatedly, too, for example in CIA Director Stansfield Turner's advice to President Carter and again in a 1993 bill by Oklahoma Democrats Dave McCurdy and David L. Boren, chair of the Senate Select Committee on Intelligence.³⁸ The exact reasons why none of these bills became law are particular to each case; in general though, resistance from the intelligence community, the Department of Defense, and congressional committees protective of their authority was enough to defeat reform.

The second source of agreement was on the need to improve human intelligence. One study, the 20th Century Fund Report, advocated deemphasizing human sources, but the rest called for strengthening the CIA's ability to gather human intelligence. Two studies, the Bremer Commission and the Gilmore Panel, supported repeal of the 1995 guidelines which required the approval of CIA headquarters before anyone with criminal backgrounds or human rights abuses in their past could be recruited. Other reports did not go that far but instead recommended reviewing the guidelines for recruiting clandestine operatives. The House Intelligence Committee recommended that the CIA leadership devote its "full time and attention to the Agency's sensitive human source collection and operational missions."³⁹

³⁸ Clark, J. Ransom, "New Boxes for Old Tools? Considerations on Reorganizing U.S. Intelligence," *The Ohio Journal of Economics and Politics* 8:1 (Fall 1993): 1-10; David L. Boren, "The Intelligence Community: How Crucial?" *Foreign Affairs* (Summer 1992): 52-62. Boren, "New World, New CIA," *New York Times*, 6/17/90, E21. U.S. Congress, House, *To Reorganize the United States Intelligence Community, and for other purposes*. 102d Cong., 2d Sess., H.R. 4165; Risen, James, and David Johnston, "Lawmakers Want Cabinet Post for an Intelligence Director." *New York Times*, 8 Dec. 2002.

³⁹ From "U.S. Commission on the Roles and Capabilities of the United States Intelligence Community." Available: <<http://www.milnet.com/usint/report.htm>> Also see "Intelligence Authorization Act for FY 1995," report of the House Permanent Select Committee on Intelligence, House Report No. 103-541, Part 1, 103 Cong, 2nd Sess, June 9, 1994, p20. Walter Pincus, "Panels Continue Impasse on Intelligence," *Washington Post*, 6/7/96, A21

Third, the studies advocated reform of the intelligence personnel system. Specific recommendations varied, but most agreed on the need for the intelligence community to develop greater flexibility and expertise.⁴⁰ Intelligence agencies were technically exempt from many civil service rules but poor performers were rarely fired. Regulations provided for agents to do a “tour of duty” in other agencies but such cross-training rarely occurred, and the Aspin-Brown Commission found that intelligence agency rules “hinder, rather than promote, their operation as part of a ‘Community.’”⁴¹ Finally, the reports agreed that the intelligence agencies needed to develop diverse capacities for a post-Cold War world, improving their employees’ training in science, technology, and languages.

A fourth source of agreement was on the need for budget disclosure. All of the commissions agreed that more historical intelligence budget data should be released to the public, while some studies advocated complete disclosure. As far back as 1975 the Pike Committee suggested that the intelligence budget was too large and recommended that it be subject to greater scrutiny from Congress and from the public (Smist 1990, 313-315). Fifth, the studies recommended organizing intelligence functions according to issue areas, such as terrorism or business espionage. In doing so, the agencies were to move away from covert operations that were often ineffective at best.⁴² A 15-member task force chaired by Harvard’s Richard E. Neustadt recommended establishing “clear

⁴⁰ The Hart-Rudman Commission had a broad mandate and recommended a network of scientific and mathematical training at all schooling levels in order to improve US national security.

⁴¹ Aspin-Brown emphasized “The need to ‘right-size’ and rebuild the community.” See Commission on the Roles and Capabilities of the United States Intelligence Community. *Preparing for the 21st Century: An Appraisal of U.S. Intelligence*. Washington, DC: GPO, 1996

⁴² Criticisms of the CIA from scholars and senior government officials are legion. Carnes Lord (2003, 178-79), who has been both, writes that “A better case can be made for fundamental organizational reform here than in any other sector of the American national security bureaucracy, with the exception of homeland defense. Angelo Codevilla (1992), who is sympathetic to the practice of intelligence, has a similarly harsh evaluation for the agency. He does not object to covert action in principle but criticizes the CIA’s Directorate of Operations because it produces very little return for taxpayers, as practiced in the 1990s, and much of the agency’s budget goes for narrowly targeted but expensive “snooper satellites.”

criteria for assessing proposed covert actions and [for] effective institutions for both implementing and monitoring such activities.”⁴³

These recommendations share a common fate—they would either strengthen the hand of the CIA or be ignored. Specifically, the first three would increase the CIA’s autonomy while the last two were never enacted.⁴⁴ Even while the CIA’s poor reputation endured among the public and among policy elites, the agency resisted major reorganization from the outside and many of the reforms that would occur increased the agency’s independent authority.⁴⁵

The 2002 Congressional Joint Inquiry into 9-11 and the 9-11 Commission provided similar counsel: reduce structural barriers to joint intelligence work across agencies; create “joint mission centers”; reduce secrecy so as to ease information sharing across agencies; give more power to the CIA director or to an intelligence “czar” to develop a national intelligence budget; increase staffing levels and quality in agencies such as the CIA’s Directorate of Intelligence; and provide greater public disclosure of intelligence information and budgets. This litany for reform has been read before, a fact that distressed Sen. Bob Graham, former chairman of the Senate Intelligence Committee,

⁴³ Allan E. Goodman and Bruce D. Berkowitz, *The Need to Know: The Report of the Twentieth Century Fund Task Force on Covert Action and American Democracy*, (New York: Twentieth Century Fund Press, 1992); Also see David Ignatius, “Openness Is the Secret to Democracy,” *Washington Post National Weekly Edition*, 30 Sep.-6 Oct. 1991, 24-25; Roger Hilsman, “Does the CIA Still Have a Role?” *Foreign Affairs* 74, no. 5 (Sep.-Oct. 1995): 104-116.

⁴⁴ CIA observers also agreed that the agency needed to improve its recruitment of racial and ethnic minorities in order to penetrate and understand an increasingly diverse set of states and organizations. By 2000, 11 percent of the CIA’s approximately 1,000 case officers were minorities. CIA officials believed that despite the United States’ advantage as a linguistically and culturally diverse nation, it had an “image problem” and failed to boost minority recruitment. Vernon Loeb, *Washington Post*, May 31, 2000 quoted in Jeffreys-Jones (2002, 280). By 2003, 12 percent of new hire case officers were minorities. Also see “A Bumper Crop Of Spies,” *Associated Press*, Aug. 20, 2003

Many of the same criticisms concerning the imbalance between collection and analysis, the weakness of the DCI, and the intrusiveness of the Pentagon were noted in a CIA internal review in 1971. See “A Review of the Intelligence Community,” March 10, 1971, released in declassified form in 1998:

<<http://www.fas.org/irp/cia/product/review1971.pdf>>.

⁴⁵ President Bush issued National Security Presidential Directive 5, dated 5/0/01, to call for a comprehensive review of the nation’s intelligence capabilities. Gen. Brent Scowcroft, who helped lead the NSPD-5, issued a still-classified report summarizing the review to the White House, but there is no indication that President Bush ever acted on the findings. Vernon Loeb, “U.S. Intelligence Efforts to Get Major Review,” *Washington Post*, 5/12/01. NSPD-5 is summarized here: <<http://www.fas.org/irp/offdocs/nspd/nspd-5.htm>>.

who in 2004 declared on the Senate floor that “A large number of the problems identified by the [congressional] joint inquiry [into September 11] and a series of commissions which preceded the joint inquiry have not been addressed.”⁴⁶ There is no guarantee that had the CIA adopted these recommendations for reform the agency would have been able to meet the challenges of terrorism or prevent the attacks of 9-11. Nevertheless, the fact that commissions in 2002 and 2003 recommended some of the same reforms that experts pressed for years and even decades before suggests that there was an enduring consensus on the proper direction for reform.

CIA priorities

Was it the CIA’s fault that these recommendations were never enacted, or might the CIA have actually agreed with the proposals, only to have them blocked by bureaucratic inertia? In fact, the best measures of the CIA’s priorities show that the agency pursued its own distinct goals, often to the exclusion of expert recommendations. Two measures of the agency’s priorities during the 1990s—CIA director congressional testimony and the agency’s annual worldwide threat assessment—show that it pursued priorities other than those recommended by blue ribbon commissions. In the early 1990s, the agency primarily focused on threats from state actors, though later that decade the agency recognized the importance of “transnational” issues including environmental and health disasters, commercial espionage and terrorism.

⁴⁶ Bob Graham, Congressional Record (Senate), 2/3/04, S385-S388. Available at: <www.fas.org/irp/congress/2004_cr/graham020304.html>. Critics pointed out that even by 2004 the agency’s reforms had only crept along at best. Flynt Leverett, a former CIA senior analyst and NSC official, noted that the agency had not addressed the problem of “jointness” or working on issues across organizational divisions. Flynt Leverett, “Force Spies to Work Together,” *New York Times*, 7/9/04.

Concerns about weapons proliferation, especially to hostile states, dominated CIA director testimony before Congress from 1991 to 1996. During this period the agency was under scrutiny from the outside and yet it made its preferences clear. The greatest threats, according to the testimony, would come from the spread of mass casualty weapons to hostile states, especially the states of the former Soviet Union. To identify the agency's priorities, the testimony of CIA directors from 1991 through 1996 was coded according to its primary topic, as shown in figure 1 (the period includes the directorships of Robert Gates, James Woolsey, and John Deutch). Topics were coded if one subject was clearly identified as the agency's first priority; barring such identification the issue occupying the majority of the testimony was coded.

[Insert figure 1 about here]

During this period the director gave testimony primarily about NCBR weapons proliferation 14 times. In addition, Russia was the primary subject four times, often in connection to proliferation. Terrorism was the main topic of three hearings, and it had a prominent secondary role in at least six others. In almost every instance, though, terrorism was discussed in connection to the spread of mass casualty weapons to hostile states. In addition to these concerns, the CIA addressed traditional issues of personnel practices and organizational reform as well as new duties. Gates noted that the agency's duties expanded far beyond what they had been in the past to include "new requirements relating to, among other things, environmental, natural resource and health issues, indicating that the intelligence community has a wider range of customers than ever, with

interests that extend beyond traditional national security concerns.”⁴⁷ In some of its reports, the agency provided comprehensive analysis of a region written more like an academic journal article than a traditional CIA analysis. In doing so, the agency innovated to serve new customers but it also may have directed resources and attention away from other threats, including terrorism.

The CIA did not only extend its reach into new policy areas, it also campaigned against some of the blue ribbon commissions’ proposed reforms, albeit quietly. In a hearing on the Aspin-Brown recommendations, Woolsey declined to endorse the proposal for a strengthened and independent DCI, saying that “I believe the director of central intelligence has most of the authorities that he or she needs.”⁴⁸ Woolsey pointedly opposed Aspin-Brown’s recommendations for reorganization—many of which were made by prior commissions and would be made again—and requested that Congress cease criticism of the agency, and thus calls for reform, and support the intelligence community by granting it more resources.⁴⁹ Woolsey said:

I do not intend at present to propose extensive new organizational changes for the intelligence community beyond the two proposal that have already been presented [for space management and a national imagery agencies]. ... Mr. Chairman, I believe it’s time to stop criticism of the past few years and to encourage this vital activity. I intend to do so. With the support of the president, the Congress and the public, I believe that all of the men and women of today’s intelligence community are up to the task of building the intelligence community of the future. We should all remember what Samuel Johnson said: “The future is purchased by the present.”

⁴⁷ Robert Gates, Public Testimony, US Congress. Joint Hearing of the House and Senate Select Committees on Intelligence. *Intelligence Reorganization*. 102nd Cong, 2nd sess. 1 April 1992. Washington DC, GPO: 1993.

⁴⁸ James Woolsey, Public Testimony. US House. Permanent Select Committee on Intelligence. *Intelligence in the 21st Century*. 19 December 1995.

⁴⁹ Woolsey’s pointed opposition of some congressional ideas made him enemies in Congress. SSCI Chairman Dennis DeConcini accused him of “total obstructionism” with respect to Congress. Steven Komarow, “In Turnabout, the CIA Finds Itself under a Microscope,” *USA Today*, 15 July 1994: 5A.

Woolsey ends with a quote from the English critic, asking Congress to refrain from immediate gratification of its desire to punish the CIA for intelligence lapses and to actively support building a stronger agency.

Legally, the many commissions and investigations studying the CIA could have put forward proposals that would be enacted in a bill to reorganize the intelligence agencies on the scale of the 1986 Goldwater-Nichols Act which legislated an unprecedented level of joint cooperation between the armed services. In practice, however, it was unlikely that Congress would adopt the blue ribbon recommendations because of the difficulty of passing sweeping reforms. The number of veto points makes radical reorganizations unlikely, except in a period of crisis such as the one following 9-11. Major legislative reform is particularly unlikely for intelligence and defense agencies because of the disarray of their opponents and the unusual level of deference members of Congress seem to give them. The CIA had a poor reputation among members of Congress, but its critics had different areas of concern: Republicans tended to bemoan poor counterintelligence while Democrats tended to worry about proliferation (at least in the early 1990s) and civil rights abuses. Furthermore, the agency had powerful defenders in Congress, such as Sen. John Warner, whose district included CIA headquarters. In addition, despite public criticism, members of Congress often deferred to the agency in organizational matters because, after all, intelligence was essential, even if controversial. Even feisty Daniel Patrick Moynihan backed away from his 1991 statement that the CIA should be dismantled and instead recommended a host of reforms.⁵⁰ If they are not fonts of legislation, what role do special investigations and blue ribbon commissions play?

⁵⁰ Daniel Patrick Moynihan, "Do We Still Need the C.I.A.? The State Dept. Can Do the Job," *New York Times*, 19 May 1991: E17.

Commissions are effective vehicles for educating those who serve on them as well as the public, especially about a close-to-the-vest field such as intelligence. Recognizing the futility of hoping for major legislation, commissioners thought they might persuade the relevant agencies to make changes on their own. Harold Brown, co-chair of the Aspin-Brown inquiry, said of the proposal to strengthen the DCI's authority: "I would not want to write this into legislation, but," he added, "rather urge the secretary of defense to make those changes" (Johnson 2004). A senior staffer on the Aspin-Brown commission remarked to a colleague that the investigation was all about "gaining time"—if commissioners wanted to change the practice of intelligence they would need time to change the priorities of the CIA.

Chairman Les Aspin insisted that his commission's first priority should be to set the CIA's agenda, noting that "We've got to establish intelligence targeting priorities" (Johnson 2004). How did his and other commissions fare in setting the agenda? The CIA's worldwide threat assessment, issued each February, provides the best overview of the agency's priorities for the coming year. From 1996, when the Aspin Commission ended its work, to 2001 the proliferation of weapons of mass destruction was at the top of the list as either the first or second priority.⁵¹ The agency was especially concerned about the possibility of weapons in the hands of rogue nations and the uncertain "metamorphosis" of Russia and China into great powers.⁵² State-sponsored threats were the most immediate concern in 1996 though in subsequent years terrorism was listed as a serious concern as part of a host of other "transnational" issues including drug, weapons trade and disease. By 2001, however, CIA director Tenant sounded an alarm over

⁵¹ CIA Speeches and Testimony, accessed 4/10/05 from <http://www.cia.gov/cia/public_affairs/speeches/index.html>

⁵² John M. Deutch, Public Testimony, US Senate. Select Committee on Intelligence, *Worldwide Threat Assessment Brief*. 22 February 1996.

terrorism after a host of deadly attacks worldwide. He warned that “State sponsored terrorism appears to have declined over the past five years, but transnational groups—with decentralized leadership that makes them harder to identify and disrupt—are emerging.”⁵³ Tenet named Osama bin Laden as the “most immediate and serious threat.” Bin Laden had been directly linked to the bombing of the USS Cole in Yemen four months before and the bombing of the US embassies in Nairobi, Kenya and Dar es Salaam, Tanzania, which killed 224 people, on August 7, 1998.

The CIA was neither blind nor unaware of the threat posed by international terrorists. The threat was only one among many, however. Before the attacks in Africa and the bombing of the USS Cole, terrorism had most often been seen as a subset of the larger problem of the proliferation of NCBR weapons into the hands of hostile states. Some within the agency saw the potential for other forms of terrorism—even for airplanes to be used as bombs—but these leads were never fully pursued or acted upon.⁵⁴ The agency took on a host of other new concerns during the 1990s; in 1992 at the urging of Sen. Al Gore the agency established an Environmental Task Force to gather information on environmental problems. At the same time, old problems were not going away. Even with the dissolution of the Soviet Union, Russia might still make a powerful adversary, and in 1996 the CIA’s deputy director for intelligence assured the Boston Committee on Foreign Relations that Russia would “continue to be a high priority for the United States and for my analysts.”⁵⁵

⁵³ George J. Tenet, Public Testimony, US Senate. Senate Select Committee on Intelligence. Worldwide Threat 2001: National Security in a Changing World,” 7 February 2001.

⁵⁴ Johnson (2004) notes that an Aspin-Brown staffer preparing a report on counterterrorism learned that a CIA official anticipated the use of airplanes as weapons. “‘Aerial terrorism seems likely at some point,’ a CIA counterterrorism specialist informed the aide—‘filling an airplane with explosives and dive-bombing a target.’”

⁵⁵ John C. Gannon, “Challenges of Intelligence Reform: The Case of Russia; Speech to the Boston Committee on Foreign Relations,” Boston, MA, July 10, 1996.

Amidst threats new and old the CIA, along with other intelligence and defense agencies, resisted reformers' attempts to better integrate all sources of intelligence. Lessening the fragmentation of the intelligence community might not have prevented 9-11 but it would likely have allowed the agency to more easily shift money and expertise to address new and changing threats. The 9-11 Commission agreed and many of the recommendations of commissions and panels in the 1990s and earlier were adopted after 2001.

Adaptability, terrorism, and mass casualty weapons

Despite notorious intelligence failures, the CIA's record also includes some successes. This section presents the best evidence for the CIA's adaptability to the terrorist threat but, ultimately, the preponderance of evidence shows that the agency made only limited strides in addressing terrorism and failed to adapt to a post-Cold War world. The world first recognized the threat of international terrorism during the 1972 Munich Olympics, when Arab terrorists took Israeli athletes hostage on an international stage (Naftali 2005, 54-77). Terrorism struck the United States a decade later during the 1983 bombing of the marine barracks and US embassy in Beirut. Two years later members of the Abu Nidal organization fired machine guns at ticket counters in the Vienna and Rome airports, killing 16 and injuring over 100. The Italian airport attacks along with a related hijacking convinced some inside the CIA that they had to do something about the terrorist threat. After a vice-presidential report on counterterrorism and a presidential directive, the CIA underwent what Timothy Naftali (2005, 180) calls a "bureaucratic revolution"

when it established a counterterrorism center in 1986.⁵⁶ The center brought together officers from the Directorate of Operations—arguably the most top secret branch of the US government—along with Directorate of Intelligence officers responsible for writing intelligence reports. The CTC included 250 staff and combined intelligence analysis with covert operations inside terrorist organizations.

Once the domain of a vanguard within the CIA, counterterrorism became a major public concern in the 1990s.⁵⁷ The 1993 World Trade Center bombing, which killed six and injured more than 1,000, along with the Sarin gas attacks in the Tokyo subway put the government on alert that terrorists were serious about inflicting mass casualties.⁵⁸ During that time, the CIA was studying bin Laden with some intensity, primarily inside the counterterrorism center.⁵⁹ During the 1990s counterterrorism spending at the CIA increased five-fold and human intelligence resources grew by 50 percent; by 1999 the CIA developed an operational strategy known as “the plan” to take advantage of opportunities to disrupt bin Laden’s network.⁶⁰

The now famous intelligence reports from the years leading up to 9-11 show that some in the CIA knew terrorism was a threat but that the agency was not able “to separate the signals from the noise,” to borrow Roberta Wohlstetter’s (1962) description of intelligence failures leading up to Pearl Harbor. It was also not able to isolate the

⁵⁶ See NSDD-207.

⁵⁷ See Clarke (2004) and Naftali (2005, 227-259).

⁵⁸ Even though the Aum Shinrikyo cult killed only 12 people, they intended to harm many more.

⁵⁹ “9/11 Report: Joint Congressional Inquiry,” House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, 7/24/03, “Counterterrorism Organizations within the Intelligence Community,” 5. A 4/2/93 CIA paper characterizes bin Laden as “independent actor [who] sometimes works with other individuals or governments [-----] to promote militant Islamic causes throughout the region...” (Joint Report, “Counterterrorism Organizations,” 4.)

⁶⁰ Joint Inquiry final report, 254-257. The agency’s biggest weakness was the inability to penetrate these groups so as to be able to warn of impending attack. Joint Report, “Counterterrorism Organizations,” 7-8. During this same period other countries’ intelligence agencies were uncovering plots against the US and passing the information to US intelligence. In 1995, for example, Philippine police discovered Ramzi Yousef’s bomb-making lab and found materials showing, among other things, a plot to crash a plane into CIA headquarters. (Yousef was involved in the first World Trade Center bombing and in a 1994 bombing of a Philippine airliner).

signals precisely enough to pursue or penetrate terrorist cells. In summer 1998, intelligence agencies reported that bin Laden was planning to attack public places in New York and Washington, DC, but the CIA acknowledged that it had little information on operatives in the United States. By the fall of 1998, an intelligence report claimed that bin Laden was looking for recruits to attack inside the US and that the next target would possibly involve flying an explosives-laden aircraft into a US airport and detonating it.⁶¹

The CIA was not static in the face of a new threat, and in fact it shifted resources toward the evolving threat of counterterrorism, sometimes at the behest of the president and sometimes as a result of its own planning process. Agency leaders knew they needed to both increase human intelligence and to know more about Islamic terrorism. This self-knowledge was not enough to prepare for the threat of 9-11, however, because policymakers were most worried not about hijackings but about the threat of “weapons of mass destruction” or, more accurately, chemical, biological, radiological, and nuclear attacks by terrorist groups, including Bin Laden. Private reports suggested that bin Laden was bent on acquiring nuclear weapons, and his public statements gave no reason for doubt. In a December 1998 interview, bin Laden said that “It is a religious duty to acquire weapons of mass destruction to defend Muslims.”⁶² A series of commissions highlighted the dangers of proliferation; one, headed by then-former Secretary of Defense Donald Rumsfeld reported to Congress in 1998 and stoked the fires of ballistic missile defense.⁶³

⁶¹ Joint Report, “Counterterrorism Organizations,” 19, 21-23.

⁶² Intelligence agencies gathered a variety of leads showing that bin Laden had been seeking weapons of mass destruction since the early 1990s. On 7/29/98, the Counterterrorism Center warned of a possible chemical, biological, radiological or nuclear attack by bin Laden, and in December 1998 intelligence agencies in the US produced reports about possible hijackings and warned that individuals were successfully evading checkpoints at New York airports. Joint Report, “Counterterrorism Organizations,” 20.

⁶³ President Clinton took some steps to address the terrorist threat during the mid to late 1990s. Some highlights are: the 3/2/95 PDD 35 which provides intelligence guidelines and makes terrorism an issue, especially in collection and analysis of the near East and south Asia; the 6/21/95 PDD 39 which calls for reducing terrorist capabilities and confirmed the FBI’s role in counterterrorism; the 8/2/96 briefing for the DCI to Democratic leaders on the terrorist

The intelligence agencies eventually shifted energies toward the most dangerous threat— nuclear weapons in the hands of terrorists. Doing so may have been wise given the information at hand, but it allowed terrorists to surprise the US with a series of costly attacks using airplanes.⁶⁴ The counterterrorism center within the CIA did pursue international terrorist groups but the center was not well staffed enough to penetrate and sufficiently disrupt bin Laden’s network. The center does not work through army battalions or even special forces teams but rather through small groups of US intelligence officials working with small groups of intelligence offers from foreign countries. These networked alliances are probably the best single method to defeat stateless and shadowy groups but the US lacked enough of them in the years leading up to 9-11.⁶⁵

The CIA was not immune to change, but the most successful policy and organizational changes were initiated either in the White House or from inside the agency. Congressional proposals, meanwhile, often fell on deaf ears. The agency addressed terrorism but was unable to either devote enough resources to it or to consider the right kind of terrorism to prevent the attacks of 2001 or, more realistically, to foresee the Sunni-Bathist insurgency in Iraq. Congressional oversight of intelligence activity is necessary because it ensures democratic accountability; the United States constitutional

threat and the need for human intelligence; the 1996 first reference to Al Qaeda in an intelligence report and the 5/22/97 PDD 62 and 63 on infrastructure protection. From the Joint Report.

⁶⁴ Senior military officials “were reluctant” to take action against suspected terrorists in Afghanistan before the September 11 attacks partly because they believed the intelligence agencies could not provide them with useful information for conducting strikes. The military did participate in efforts “to counter” bin Laden’s network prior to the 2001 attacks, but the Joint Inquiry committee deleted the specific details of those operations. During the spring and summer of 2001, the intelligence agencies had a “significant increase in information” that indicated bin Laden and al Qaeda “intended to strike against U.S. interests in the very near future.” Intelligence officials widely believed, however, that the attack would occur against U.S. interests overseas. (Similar information is conveyed in the August 8, 2001 Presidential Daily Briefing, the text of which was released during the 9-11 Commission hearings.

⁶⁵ For an example of the work of the center, see Dana Priest, “Help from France Key in Covert Operations,” *Washington Post*, 7/3/05, A1.

tradition guards against too much power in the hands of a single executive. But organizational intelligence reform led by Congress was, at best, ineffective.⁶⁶

Autonomy from Congress

Congress has long granted the CIA more autonomy than it has given to other agencies. When the CIA was originally created in 1947 there were no permanent oversight committees in Congress, and the National Security Council was tasked with monitoring the agency.⁶⁷ In practice the CIA director and DCI, one in the same, worked with the NSC to plan the agency's agenda. The National Security Act gave the CIA a broad and vague mandate, allowing it to "perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."⁶⁸

⁶⁶ Some critics charge that reforms led by the Church committee were harmful and led the CIA to be overcautious in its recruitment of foreign sources.

⁶⁷ Historians debate whether or not the CIA was intended to engage in covert operations or whether it was originally created for intelligence collection and analysis only. David Rudgers (2000) argues that covert operations were part of the plan all along while Amy Zegart (1999) maintains that some of the CIA's creators, at least, purposefully did not give the agency authority to engage in covert activity.

At the very least, the CIA's mandate from Congress was ambiguous. Lawmakers kept explicit language about the CIA's clandestine role out of the 1947 National Security Act in order to avoid controversy but decided to add more detail later. Gen. Hoyt S. Vandenberg, director of the Central Intelligence Group, a proto-CIA, wrote privately that he would write a "short section indicating the necessity for clandestine operations" that would "not be placed in the record." (Vandenberg, private memo for the Secretaries of State, War, and the Navy and for Adm. William D. Leahy, 29 April 1947, Document 232, CIA Collection, Special Collections, Department of State Electronic Reading Room <foia.state.gov>. Also see Tom Braden, "The Birth of the CIA," *American Heritage* 28 (February 1977): 4-13 and Jeffreys-Jones 158-160)

The CIA director, in practice, performed much of the oversight function for the NSC, and Congress initially gave the agency only minimal scrutiny. Originally a small subcommittee of the House Armed Services Committee exercised oversight and had a close relationship with agency officials until Senator Joseph P. McCarthy alleged that the agency was a haven for Communist sympathizers and threatened investigations. McCarthy's red-baiting contributed to the CIA's autonomy; after the public turned against him in 1954, Congress was less willing to exercise oversight (Jeffreys-Jones 2002).

⁶⁸ The NSC, originally created as an afterthought without the power it would later hold, was given substantial oversight over the CIA. The DCI was also given a great deal of autonomy to compile an agenda for both the CIA and NSC. See National Security Council Intelligence Directive No. 4, Washington, December 12, 1947, National Archives and Records Administration, RG 59, Records of the Department of State, Records of the Executive Secretariat, NSC Files: Lot 66 D148, Dulles-Jackson-Correa Report, Annex 10. Confidential.

Eventually, the DCI was given authority to act on behalf of the NSC in setting an intelligence agenda and in distributing intelligence information. See National Security Council Intelligence Directive No. 1, Washington, 1/19/50, Truman Library, Papers of Harry S. Truman, President's Secretary's Files, Subject File: Secret. Available online at: <<http://www.fas.org/irp/offdocs/nscid01.htm>>.

During the 1950s and 60s, a bi-partisan consensus about the goals of intelligence and security policy prevailed in Congress. Most members were anti-communist, some more than others, and Congress was content to let the intelligence agencies pursue anti-Soviet goals. The mood may be hard to capture for contemporary readers familiar with congressional probes into intelligence failure but, as Roy Godson (1995, 75) describes, “Congress gave its general approval after being apprised of developments and only rarely inquired into details or sought to micromanage intelligence agencies.” The first member of Congress to demand intensive oversight was Sen. Joseph McCarthy who suspected that the agency harbored communist sympathizers. After the public turned against McCarthy’s red-baiting in 1954 his bid to reign in the CIA ended in ignominy, giving the practice of congressional scrutiny a bad name.

Revelations of covert operations gone awry in the Bay of Pigs, Vietnam, and elsewhere led to congressional inquiries—part analysis and part theater—into intelligence in the 1970s. Since then, oversight has been performed by standing committees that critics complained were too cozy with the CIA. What began as the hostile Pike and Church committees turned into permanent bodies that criticized the executive for not sufficiently increasing CIA authority.⁶⁹ In some cases, intelligence committee members began to spend more time advocating for increasing the agencies’ budgets than they did trying to constrain or question the agencies. In other cases, committee members seemed to be in awe of the secrecy and prestige surrounding spycraft. Congressman Charles Grassley noted that when CIA officials meet with the intelligence committee “Everyone

⁶⁹ Vernon Loeb, “IntelligenCIA: Portrait of a Pessimist,” *Washington Post*, 3/6/00. John Millis, staff director of the House Permanent Select Committee on Intelligence, notes that “The problem ... begins at the top: the Director of Central Intelligence has far too little authority. The Pentagon controls more than 85 percent of the intelligence community...”.

just melts in their presence.”⁷⁰ Legal guarantees, fragmented authority, and respect for bureaucrats who employ secrecy and force combined to give the CIA a great deal of autonomy from Congress.

Autonomy after 9-11

Institutional and historical constraints left the CIA relatively untouched, especially given the beating the agency took in the media. But the real test for the agency’s autonomy was whether it could stand up to a political crisis that implicated the intelligence community: the impulse to reorganize following a massive terrorist attack on American soil. In the end, the CIA not only successfully resisted handing over intelligence and counterterrorism authority to the Department of Homeland Security, against the wishes of Congress, it also increased its own budget and responsibility.⁷¹

The DHS was created, in part, to analyze and assess terrorist threats to the US. One of the Department’s four directorates, Information Analysis and Infrastructure Protection (IAIP), was intended to “assess, receive, and analyze law enforcement information, intelligence information, and other information” from state, local, and federal agencies as well as private sector entities.⁷² The Homeland Security Act of 2002 did not mandate that IAIP collect intelligence, but it did allow for the agency to fuse raw data from the CIA, FBI, and other parts of the DHS and to deliver threat

⁷⁰ Charles Grassley, *Christian Science Monitor*, 6/26/02.

⁷¹ Congress noted that the CIA used the TTIC to block the information sharing which homeland security reorganization was supposed to achieve. Senate Report 108-358 on the FY 2005 Intelligence Authorization Act notes that: “Although efforts have been made to surmount restrictions, some information sharing limitations have reemerged in the very programs that were designed to address them. The operations of the Terrorist Threat Integration Center (TTIC) are a prime example of this transfer of limitations,” the report observed. Available online at: www.fas.org/irp/congress/2004_rpt/s108-258.html

⁷² Homeland Security Act of 2002, 107th Cong, 2nd sess. HR 2002, p12.

information to state and local authorities as well as to the president. Congress intended the Department's intelligence arm to be a leader in counterterrorism intelligence.

The CIA, however, successfully resisted giving authority to the new department. When the Bush administration created the Terrorist Threat Integration Center (TTIC) in May 2003, the White House considered placing the agency under the authority of the DHS but declined to do so; the White House either believed that the DHS was not competent to perform threat analysis or that other agencies such as the CIA were better equipped.⁷³ The TTIC was created to provide terrorist threat analysis to the president and federal agencies—the function originally envisioned for the DHS. The center collects threat information from the US and abroad for use in reports to policymakers while also maintaining a database of known and suspected terrorists. It analyzes specific threats, such as cyber terrorism and Al Qaeda, and also compiles the president's daily threat matrix. Its staff of between 100 and 200 (in 2004) is on loan from the CIA, FBI, DHS and other agencies.⁷⁴

The CIA has wielded extraordinary influence in the center's affairs since its creation. The center's budget was originally part of the CIA's and it was originally located in CIA headquarters in Langley, Virginia. The CIA's influence over counterterrorism policy left the DHS, and especially the IAIP Directorate, "out in the cold" according to one observer.⁷⁵ The department lacked experienced intelligence analysts: its best intelligence staff was borrowed from other agencies.⁷⁶ One TTIC

⁷³ CIA officials vigorously lobbied to place the center under the jurisdiction of the Director of Central Intelligence, arguing that the agency had the most competent terrorism analysts. Brian Krebs, "White House Finds Homeland Security Jobs a Tough Sell," *Washington Post*, 2/27/03.

⁷⁴ Staffing estimates from various interview sources and reports in *Government Executive*.

⁷⁵ Seth G. Jones, "Terrorism and the Battle for Homeland Security," Foreign Policy Research Institute E-Notes, 5/21/04.

⁷⁶ John Mintz, "At Homeland Security, Doubts Arise Over Intelligence," *Washington Post*, 7/21/03.

analyst, frustrated with the gulf between the formal authority given to the agency and the reality of CIA influence, characterized the department's organization chart as "made of jello and silly string."⁷⁷ Neat symmetrical organizational boxes belied the chaotic reality. She complained that "legislators have a naïve view of their power...they think that they can just make it so that it is. But you can't hire right away ... the processes takes a long time." The department's IAIP took months to obtain sufficient office space and computers.⁷⁸ While the CIA and FBI were recognizing themselves for counterterrorism, IAIP went through three directors in two years.⁷⁹ In 2004 the TTIC was reorganized as the National Counterterrorism Center and placed under control of the Director of National Intelligence but the CIA influence remained. The CIA and FBI issue well-regarded terrorism threat analyses even though an executive order gives the DHS primary authority for disseminating homeland security information.⁸⁰ In some cases the agencies have overlapping responsibilities—the FBI organizes task forces with state and local police—but in other cases policymakers turn to the CIA and FBI because they view the older agencies' reports as more credible and authoritative.

Homeland Security Committee ranking Democrat Jim Turner put it bluntly: despite the fog of overlapping responsibilities in the new department, "One thing we do know is that the robust intelligence function of the DHS laid out in the act creating the

⁷⁷ Personal interview with a former FBI and current DHS official, 2004.

⁷⁸ Personal interview, 2004.

⁷⁹ A Markle Foundation report noted that the DHS has not "taken the necessary steps to build the communications and sharing network required to deal with the threat, or to begin producing regular, actionable intelligence products for other agencies." *Creating a Trusted Network for Homeland Security: Second Report of the Markle Foundation Task Force* (Washington, D.C.: Markle Foundation, December 2003), p. 3.

The DHS Inspector General has also been critical of the department. See Office of Inspector General, "DHS Challenges in Consolidating Terrorist Watch List Information," Office of Information Technology, DHS, OIG-04-31, August 2004.

⁸⁰ E.O. 13312, 7/29/03.

department] does not exist.”⁸¹ The DHS lacks a good reputation in intelligence analysis because it lacks a track record and sufficient resources. The CIA, however, is not the best agency for disseminating terrorist information because it lacks good relationships with states and localities, and it does not have the capability to assess domestic threats since by law the CIA’s mission concerns foreign intelligence. Both experts and members of Congress recommended that the DHS be given full responsibility for coordinating and disseminating terrorist threat information in the US, but through 2005 the CIA and the FBI remained the lead agencies.⁸² Technically the DHS takes the lead, but in reality, the DHS provides information about terrorist threats to states, localities, and the private sector, the FBI informs the law enforcement community, and, as of 2005, the CIA provides much of the threat analysis used by the White House.⁸³

Sources of autonomy

Despite dozens of proposals for serious reform over the past three decades, the CIA resisted major reform until 2004 when Congress passed a sweeping intelligence act creating, among other things, a National Intelligence Director. Even then, the CIA preserved its autonomy by asserting control over counterterrorism through the NCTC (formerly TTIC), winning a bureaucratic tussle with the DHS. The CIA’s resistance to outside influence is not unusual—most agencies are reluctant to cede authority. The CIA stands out because it was able to preserve its autonomy in the face of intense criticism

⁸¹ William New, “Lawmakers air concerns about terrorism intelligence office,” *National Journal’s Technology Daily*, 7/22/03; Chris Strohm, “House chair says DHS should lead intelligence analysis,” *Govexec.com Daily Briefing*, 6/7/04.

⁸² Markle Foundation, “Protecting America’s Freedom in the Information Age” (2002), 71-72; “Lieberman Hails Intelligence Analysis Center As Necessary; Says it Belongs in Homeland Security Department, Not CIA,” *Press Statement, Senate Governmental Affairs Committee*, 1/29/00; Bruce Berkowitz, “A Fresh Start Against Terror,” *New York Times*, 8/4/03.

⁸³ Former White House staff, personal interview, 2/14/05.

from the public and from policy elites to a degree that other agencies were not.⁸⁴ The Immigration and Naturalization Service, too, was poorly regarded by many experts but it was unable to resist the pressure for change and the agency was thoroughly reorganized during the creation of the DHS. The CIA, meanwhile, was able to persuade legislators to hold off on reforms and to let the agency reorganize itself and, when legislation was inevitable, to interpret the law so as to increase the agency's authority. The CIA has acted on liberal interpretations of the law ever since its original assertion of the power to engage in covert operations and continuing through its more recent interventions in homeland security. What explains the CIA's frequently successful assertion of autonomy? I examine the role of bureaucratic politics, congressional and presidential incentives, and law in shaping the CIA's autonomy. Though each of these is a means for autonomy, the ultimate source of autonomy lies in the nature of the tasks performed by intelligence and law enforcement agencies. This analysis follows a long line of studies of how agencies fail to adapt but supplements the standard account by showing how particular functions make major reorganization even more difficult in intelligence and law enforcement agencies than it is in other bureaucracies.⁸⁵

Bureaucratic politics

From one perspective, the CIA was effective in playing the game of bureaucratic politics to define and preserve its mission. It is a truism that organizations are established

⁸⁴ As Emmerich (1971) noted in a seminal study of bureaucracy, all agencies strive for autonomy from political control because agencies think that they know best.

⁸⁵ Rosen's (1991, 5) keen and subtle study of innovation in military bureaucracies concludes that the best approach to studying innovation, which refers to an organization's ability to adapt to meet new needs, is to abandon a search for a grand theory and to recognize that "different kinds of innovation occur for different reasons in the same organization, and threat different organizations will handle innovation very differently." Rosen follows Downs and Mohr (1976, 700) in his advice to study innovation contextually rather than abstractly. Rodger (2005) offers a detailed history of British naval power in which organizations are central: the British Navy, and Britain itself, ruled the seas because of the ability of the navy to innovate and adapt to new threats and purposes even before politicians could predict what the navy needed to do.

to fulfill certain purposes but once established they may deviate from the goals originally laid out for them by politicians. The CIA was created in large part to address what was perceived to be an intelligence failure at Pearl Harbor but the agency and its supporters succeeded in defining its tasks to include other purposes such as covert action. Scholars as diverse as Philip Selznick and Terry Moe have noted that what an agency does is often the result of a bargain struck with politicians over the appropriate mission and tasks (Selznick 1949; Moe 1987; Moe 1989).⁸⁶

The CIA used its autonomy to develop some capacity to understand international terrorism, but such changes were minor in the scope of the agency's responsibility. In the face of criticism, the agency's primary goal was to control change; it opposed major legislation that would reduce its authority or overhaul its management structure. During the 1980s and 90s, intelligence officials worked behind the scenes to oppose reforms they thought unwise, allowing intelligence committee members to speak out on behalf of the agency.

Throughout its history, the CIA could rely on other bureaucratic actors to help stymie change. The agency could always count on the Pentagon to oppose efforts to radically reorganize or abolish the CIA because the Pentagon was happy with the status quo in intelligence: it controlled as much as 90 percent of the intelligence budget during the Clinton administration, leaving the CIA with 10 percent.⁸⁷ Some of the reforms

⁸⁶ Agencies bargain with politicians over authority and goals. Though politicians have ultimate legal authority, agencies have powerful tools, such as delay or obstruction, at their disposal. See Golden (2000) for examples of agency tactics. Autonomy remains a goal even when agencies lack an obvious clientele, as in the national security realm. Civilian leaders can shape incentives to favor some organizational goals and tasks over others (Avant 1994).

⁸⁷ In a March 1992 letter to Congress, Defense Secretary Cheney opposed intelligence reform, noting that reform proposals "would seriously impair the effectiveness of this arrangement [between the Secretary of Defense and the Director of Central Intelligence] by assigning inappropriate authority to the proposed Director of National Intelligence (DNI), who would become the director and manager of internal DoD activities that in the interest of efficiency and effectiveness must remain under the authority, direction, and control of the Secretary of Defense." Cheney concluded by recommending that the president veto the proposed legislation if it were passed by Congress. Cheney's 3/17/93

proposed by the 9-11 Commission, including the creation of a Director of National Intelligence (DNI), might have been adopted over a decade ago if not for the opposition of the then-Secretary of Defense, Richard Cheney.

After 9-11, however, the chorus for change was loud enough to become an issue in election campaigns, and politicians felt pressure to enact reform. Faced with unprecedented public pressure, intelligence officials mounted a public campaign to frustrate reorganization. When Senate Intelligence Committee Chairman Pat Roberts offered a sweeping plan in 2004 which would transfer sections of the CIA to direct control under a new national intelligence director, intelligence officials went public with their criticism. One official told *Government Executive* that “Having brickbats lobbed at it [Roberts’ plan] is not an adequate response to this proposal. It deserves a wrecking ball.”⁸⁸ Acting CIA Director John McLaughlin, a career CIA official trained to exercise secrecy and discretion, wrote op-eds and took to the airwaves to defend the agency from encroachment. He told “Fox News Sunday” that the idea for creating an intelligence czar was not productive and “it doesn’t relate particularly to the world I live in.”⁸⁹ The CIA leveraged the interests of other agencies and used its own clout to preserve and expand its authority.

Congressional and presidential incentives

As countless scholars have noted, the diffuse and fragmented nature of American politics—the separation of powers, weak parties, the delegation of power in Congress to

letter to House Armed Services Committee chairman Les Aspin is archived here:
<www.fas.org/irp/congress/1992_ct/cheney1992.pdf>

⁸⁸ Mike Nartker, “Senate Chairman unveils intelligence reform proposal,” *Government Executive* Daily Briefing, 8/23/04.

⁸⁹ Fox news Sunday, Sunday, July 18, 2004 <<http://www.foxnews.com/story/0,2933,126115,00.html>>

committees, and the power of the Senate filibuster—frustrates large-scale reform.⁹⁰ The simple fact that so many individuals must compromise in order for reorganization to occur makes major reorganization unlikely. The Cold War consensus over intelligence policy further limited prospects for reform: Congress was inclined to grant the CIA a great deal of discretion during the 1950s and 60s when it was content to let the agency monitor the Soviets in secret. The unitary presidency has fewer “veto points” than Congress, and it should in theory be easier to obtain presidential support for major reform. But in fact there are few reasons why a president would spend precious political capital on organizational reforms beyond the White House which are expected to bear fruit only years or even decades after they are enacted (Arnold 1998, 3-24).⁹¹

When spending became the political issue of the day politicians took the budget knife to the CIA, but again with a view to short term incentives. Faced with the end of the Cold War and the prospect of massive budget deficits, Congress and the president intervened in agency affairs by cutting defense spending beginning with the last Reagan budget and continuing through the Clinton administration.⁹² The post Cold War “peace divided” meant a 30 percent decline in funding for the CIA’s Directorate of Operations

⁹⁰ Major reforms are only likely in periods in which one party has overwhelming control of government or in which there is a crisis, and even in these periods the chances for major reform are limited (Steinmo and Watts 1995). On the narrow window for policy change in the United States, see Baumgartner and Jones (1993) and Kingdon (1984).

⁹¹ Zegart (1999) shows how short-term political calculations can produce strange bedfellows and consequences that are harmful in the long term.

⁹² Funding for national defense declined by about 16.9 percent between the last Reagan Administration defense budget (FY 1989) and the last Bush Administration budget (FY 1993). These were the deepest cuts of the post-Cold War period. To be sure, the depth of these reductions owed much to the actions of the then Democratic-controlled Congress. However, the Democratic Congress was hardly acting alone: all but the very first of the Bush budget submissions called for cutting defense spending.

By comparison, under the Clinton Administration, funding for defense declined by about 13.1 percent between FY 1993 and FY 1998, when funding for defense bottomed out, and has risen 6-7 percent since then. The actions of the now Republican-controlled Congress have been partly responsible for the recent upswing in funding for defense. Like the cuts begun under the Bush Administration, the increases of the past several years owe something to the actions of both Congress and the Clinton Administration

and a personnel reduction of 20 percent.⁹³ The CIA could not prevent budget cutbacks—though funding did increase after terrorist attacks on embassies in Africa and the USS Cole—but it still managed to shape its mission and organization with minimal interference.

Even after a far bigger crisis, the attacks of 9-11, the structure of Congress frustrated reform. In 2004, eight committees held hearings on intelligence reform. That year, policymakers overcame the usual partisan and institutional divisions to enact the largest intelligence reorganization in half a century.⁹⁴ Even so, some of the more radical proposals for reform were left out of the legislation and the result actually increased the power of the CIA—its budget, personnel, mission, and organizational authority.⁹⁵

Law

If an agency's statutory authority is broad, then the agency will have a great deal of autonomy. Famously imprecise paragraphs from the 1947 National Security Act give the CIA broad authority in intelligence matters that continues to this day. The law excludes "domestic law enforcement powers" but deliberately not much else including

⁹³ James Pavitt, "Change and The CIA," *Washington Post* 8/6/04, A19.

⁹⁴ President Clinton and other Democrats worked to pass anti-terrorism measures in the anti-crime bill of 1995, some of which was similar to provisions in the Patriot Act. The reforms were defeated, however, primarily by House Republicans (Naftali 2005, 256, 267).

⁹⁵ Carnes Lord (2003) has gone as far as to propose abolishing the CIA. Abolition of large high profile agencies is rare, but other spy agencies in American history, such as U-1, have been abolished and reorganized. And other high profile Cold War agencies have been closed, most notable the US Information Agency, a unit of the State Department which was formally shut down in 1999.

Congress "implored" President Bush in 2002 to reform U.S. intelligence, but there is no indication that he took the steps recommended by a secret NSPD-5 review, led by Gen. Brent Scowcroft, which was reported to Congress in 2001. See Vernon Loeb, "U.S. Intelligence Efforts to Get Major Review," *Washington Post* 5/12/01; NSPD-5 is summarized here: <www.fas.org/irp/offdocs/nspd/nspd-5.htm>; The House Permanent Select Committee on Intelligence's July 2002 request for changes in the FY 2003 intelligence authorization act is reported here: <www.fas.org/irp/congress/2002_rpt/hrpt107-592.html>; There is no indication that President Bush made these changes before 9-11. After 2001, the president strengthened the authority of the CIA through executive orders, including E. O. 13355 of August 27, 2004 which gives power to the CIA director and formalizes the director's access to the president.

covert operations.⁹⁶ Though broad and ambiguous, the relevant statutes do not ultimately protect the CIA from reorganization.⁹⁷

Budget Pressures

It might be argued that the CIA was unable to innovate to meet new challenges because it lacked sufficient resources following budget cutbacks. Intelligence agencies do not routinely disclose their budgets, complicating efforts to judge whether they have adequate resources. General measures of intelligence budgets, however, suggest that the intelligence agencies experienced long term increases from the 1960s to the 1990s. The total annual budget of the National Foreign Intelligence Program (which includes the budgets of all national-level intelligence agencies including the CIA) increased during the 1980s after a low point in the 1970s.⁹⁸ Between 1980 and 1989, total intelligence funding rose by 125 percent in real dollars from 1980 to 1989, as reported by the Aspin-Brown Commission.⁹⁹ Budgets declined in the early 1990s but by the middle of the decade remained 80 percent higher than the 1980 amount.

The nature of an elemental agency: statecraft as spycraft

⁹⁶ The National Security Act of 1947 [50 USC 403-3(d)(1)] prohibited the CIA from having domestic law enforcement functions in order to avoid the secret police agencies found in European dictatorships. The line between domestic and foreign threats was more clear during the Cold War than today, but even then the CIA navigated investigations against people in the US who were, in some cases falsely, believed to be working for foreign Communist agencies.

⁹⁷ The statutes leave out much, providing an opportunity for executive prerogative in a case of crisis where the law is silent.

⁹⁸ House Report 103-254, *House Appropriations Committee on Department of Defense Appropriations Bill*, 1994, 14, quoted in Federation of American Scientists, "Tracing the Rise and Fall of Intelligence Spending," June 7, 2004, available at <<http://www.fas.org/irp/budget/index.html#3>>, accessed 6/10/05.

⁹⁹ Commission on the Roles and Capabilities of the United States Intelligence Community, "Ch. 13: The Cost of Intelligence," *Preparing for the 21st Century: An Appraisal of U.S. Intelligence*. Washington, DC: GPO, 1996. Accessed 4/04/05, at <<http://www.fas.org/irp/offdocs/int017.html>>.

Bureaucratic politics, presidential preferences, congressional incentives and law each shape autonomy, but they are not the only important factors. Each is the result of something else: why does the president feel compelled to support one type of reform over another? Why does the law (by omission) allow the CIA the discretion to devote resources to covert operations but not to domestic law enforcement? History, social values and the sequence of political interaction shape the answers to these questions.

At bottom, however, the CIA has a great deal of autonomy because its tasks are *elemental*. The survival and maintenance of the state depends upon the swift and careful exercise of intelligence analysis, spying, and even covert operations.¹⁰⁰ The United States could not exist as a world power without an effective national intelligence agency whereas it could *exist* without, say, a Department of Education. The exercise of executive power requires intelligence, and presidents depend upon effective intelligence agencies for their electoral success as well as for their legacy because statecraft involves intelligent and planning.¹⁰¹ In reality, the president, Congress, and the bureaucracy are each involved in executive power because each has some responsibility for oversight over intelligence practices.

In addition to the elemental nature of the CIA's mission, its tasks defy extensive oversight. Intelligence gathering and analysis can only be carried out with independence, secrecy, a great deal of information control by the agency, operational and organizational

¹⁰⁰ What is necessary for the survival and maintenance of a state, as well as the idea of what the political community is, may change over time. Historians debate whether George Washington intended for a large peacetime intelligence agency but it is clear that Washington relied on secret intelligence as have all American presidents during times of great threat (Knott 1996; Rakove 1996).

¹⁰¹ The craft of intelligence lies at the center of the most seminal works on warfare. For Sun Tzu, author of the greatest treatise on the art of war (with the possible exception of Clausewitz), the highest virtue in war is not to win a hundred battles but to defeat the enemy without fighting at all through good intelligence; Sun Tzu (1993, 96) writes that "he who knows the enemy and himself will never in a hundred battles be at risk." Ancient India's seminal work on kingship, the Arthashastra (1951 ed, 367, bk. IX, ch. i), declares: "My teacher says that between power (money and army) and skill in intrigue, power is better....No, says Kautilya, skill for intrigue is better." Quoted in Kahn (1991).

speed and agility, and a long time horizon for success. At the organizational level, political oversight would compromise secrecy, slow and hinder operations, and threaten to substitute short-term political tactics for long-term strategy. Case officers (the term agents prefer to “spies”) tend to work alone, focus on operations rather than the big picture, and be risk-takers and improvisers—all qualities that frustrate control at the individual level.¹⁰² The nature of the CIA’s tasks leads to myriad more immediate reasons politicians grant sustained discretion: members of Congress are in awe of the mystique of spycraft; politicians are happy to delegate responsibility, and blame, for “dirty tricks”; even well-informed congressional committees have little access to information about intelligence not provided by the agencies; and the law governing the CIA is often silent. The demands of spycraft shape the structures which permit the CIA remarkable autonomy, even when its reputation is under attack.

Reputation, autonomy, and the FBI

The CIA is not the only agency to maintain autonomy despite a withering reputation. The FBI—the investigative arm of the Justice Department and technically the lead federal agency for counterterrorism—suffered criticism for scandal, inefficiency, and law enforcement failures during the terrorist attacks of 2001. And yet it managed to *increase* its authority despite criticism from the press and from expert commissions as well as negative ratings in public polls. A 2001 Gallup poll showed that only 38 percent of those polled had confidence in the bureau compared with 60 percent who had confidence in their local police.¹⁰³ The reason for the FBI’s autonomy, relative to other

¹⁰² (Lord 2003, 169-179) comes to a similar conclusion.

¹⁰³ Patrick Leahy, “Oversight: Restoring Confidence in the FBI,” Senate Judiciary Committee Hearing, 6/20/01.

homeland security agencies, lies in the nature of its tasks: like the CIA, its work is elemental to executive power and requires speed, broad legal authority, and secrecy.

The FBI's reputation suffered as much or more than the CIA's following the terrorist attacks of 2001. Members of Congress as well as pundits and experts bashed the agency for its poor counterterrorism performance and failure to identify and track suspected terrorists. Sen. Arlen Specter (R-Pa.) captured the mood of Congress when he blamed the agency for intelligence failure. "The FBI is not adequate to provide the American people with intelligence," he said to the press. "This failure goes right to the top."¹⁰⁴ Experts, too, rendered a verdict that echoed throughout the media: the FBI was ill-equipped for counterterrorism.¹⁰⁵

The FBI operates as a national police force rather than as an intelligence agency; of the agencies analyzed in the 9-11 report, the FBI bore the brunt of the criticism (National Commission on Terrorist Attacks upon the United States 2004, 71-107). Among other missteps, the Arizona field office issued a prescient report about flight training by Muslims that was ignored by supervisors in Washington, DC; FBI director

¹⁰⁴ William New, "Bipartisan group of senators bashes FBI, files oversight bill," *National Journal's Technology Daily*, 2/25/03.

¹⁰⁵ Eleanor Hill, "The Intelligence Community's Knowledge of the September 11 Hijackers Prior to September 11, 2001," Testimony to the Senate Select Committee on Intelligence (SSCI) and House Permanent Select Committee on Intelligence (HPSCI), September 20, 2002. In addition, three congressional staff (interviewed in person from 2003-04) said that the FBI was so bad that it should be abolished though they conceded that it was not likely that the FBI would be shut down. Informal conversation with other current and former staffers suggests that this sentiment is widely shared.

Other critical evaluations of the FBI can be found in: Office of the Inspector General, "A Review of the Federal Bureau of Investigation's Counterterrorism Program," Report No. 02-38, September 2002, available at www.fas.org/irp/agency/doj/oig/fbi02sum.html; U.S. Department of Justice Office of the Inspector General, "A Review of the FBI's Actions in Connection With Allegations Raised By Contract Linguist Sibel Edmonds," UNCLASSIFIED SUMMARY, Office of the Inspector General Office of Oversight and Review January 2005, available at www.fas.org/irp/agency/doj/oig/sedmonds.html

Louis Freeh implored the bureau to focus on counterterrorism, but there were only two analysts in the entire agency following bin Laden when his men struck the US.¹⁰⁶

To be fair, before 2001 the agency was not structured to make counterterrorism a priority. The Church and Pike committees investigated both agencies and blamed the FBI for overzealous investigations of alleged subversives—socialists, civil rights advocates, or artists—who turned out to be harmless (Select Committee 1977, 170-178). In the 1980s the agency devoted an increasing amount of resources to drug crimes and other offenses that crossed state lines, developing law enforcement rather than intelligence expertise. Thousands of federal agents were assigned to the “war on drugs,” not to terrorism, and legal constraints and career incentives disposed agents to think in prosecutorial rather than preventative terms—in part a reaction to abuses during Hoover’s freewheeling tenure. Agents, in short, were rewarded for producing evidence that would stand up in court and lead to convictions, for generating measurable results that could be presented to Congress. The bureau evinced a periodic interest in terrorism but the decentralized structure of FBI meant that counterterrorism expertise was regional and never really reshaped the organization. The New York field office, for example, developed substantial but localized counterterrorism expertise during the 1980s.¹⁰⁷

The bureau’s structure gives field offices extraordinary autonomy. Control over information ensures that each office gets credit for investigations; that same control stymies information sharing and blocks efforts at comprehensive reform. The FBI’s “Trilogy” project, begun in 1999, was to improve information sharing by installing a

¹⁰⁶ The FBI director put bin Laden on the FBI’s 10 most wanted list on 6/7/99 but the focus on terrorism did not reach all—or most—parts of the agency. Former National Coordinator for Counterterrorism Richard Clarke said that when he visited FBI field offices to increase their focus on al Qaeda, “I got sort of blank looks of ‘what is al Qa’ida?’” CBS News, 7/25/03, archived at <www.cbsnews.com/stories/2003/07/25/attack/main565058.shtml>

¹⁰⁷ Joint Inquiry final report, “Counterterrorism Organizations within the Intelligence Community,” 2. In 1980 the New York field office established a joint terrorism task force of state and federal law enforcement personnel.

common computer system across the bureau but it failed (in part) because field offices resisted sharing information with other branches.¹⁰⁸ In early 2005, FBI Director Robert S. Mueller III took the blame for Trilogy's failure and admitted that more than \$100 million spent on the project was wasted.

In spring 2002, however, Mueller announced an overhaul of the bureau to place terrorism front and center. He rewrote the agency's mission statement making "protect the United States from terrorist attack" the FBI's first priority.¹⁰⁹ The changes were not merely rhetorical: the bureau centralized its counterterrorism programs after years of the New York office taking the lead, created joint task forces in all field offices, improved counterterrorism analytical training, and moved 518 field agents (out of 11,000) from criminal investigation to counterterrorism with plans to hire even more.¹¹⁰

The flurry of activity earned praise for Mueller and the bureau, and the FBI seemed to respond in textbook fashion: a crisis led political leaders to demand change and the agency followed their cues. What actually happened, however speaks to the power of rhetoric over policy change and, ultimately, of bureaucratic autonomy. The FBI increased its *authority* to become the primary agency for defending against terrorism in the US while it still devoted most of its *activity* to white collar crimes and the drug war.

¹⁰⁸ The bureau is "significantly hampered" in its ability to prevent terrorism and other crimes because of its failure to replace outdated computer systems according to Justice Department Inspector General Glenn A. Fine. The inspector general found that the failure was due to poor management decisions, inadequate program oversight and a lack of employees with the skills to handle such a sweeping project. Private contractors were building the system, and the FBI did not have the ability to manage them. Dan Eggen, "Computer Woes Hinder FBI's Work, Report Says," *Washington Post*, 2/4/05; April Fulton, "FBI Lauds Watch List But Still Lacks Access," *National Journal's Technology Daily*, 5/20/04; A Review of the FBI's Trilogy Information Technology Modernization Program, National Academies Press, 2004; Terry Frieden, "Report: FBI Waster Millions on 'Virtual Case File'" CNN, 2/3/05.

¹⁰⁹ The FBI's priorities, as of 2003, are

1. Protect the United States from terrorist attack.
2. Protect the United States against foreign intelligence operations and espionage.
3. Protect the United States against cyber-based attacks and high-technology crimes.
4. Combat public corruption at all levels.
5. Protect civil rights.

(www.fbi.gov/priorities/priorities.htm)

¹¹⁰ Joint Inquiry, "Counterterrorism," 3.

The agency opened new field offices abroad and worked with the Justice Department and Congress to clarify laws giving it authority over an expanding set of terrorism-related crimes.

Quantitative measures of what the agency actually does show changes after 9-11, but relatively minor ones given the bureau's other responsibilities. In FY 2001, the bureau recommended prosecution against 39,060 people and by FY 2003 referrals had declined to 34,008.

[Inset Figures 2 and 3 about here]

Much of the bureau's activity was unchanged but presumably some agents were spending more time investigating terrorism and less time on other more easily prosecutable crimes; terrorism referrals increased from 16 in December 2000 to 115 in December 2003 but still made up a tiny fraction of total activity.¹¹¹ The number of employees in jobs related to counterterrorism increased only modestly too, aside from Mueller's dramatic public announcement that he was moving 518 agents to counterterrorism.¹¹² The FBI realized

¹¹¹ It could be that there are simply few prosecutable offenders in the US. If true, then the FBI must seek measures for success other than the number of convictions. The GAO found that federal prosecutors exaggerated their number of terrorism convictions in fiscal year 2002 by wrongly classifying three of four cases as "international terrorism." General Accounting Office, Better Management Oversight and Internal Controls Needed to Ensure Accuracy of Terrorism-Related Statistics, GAO-03-266, January 2003.

¹¹² In FY 2001 there were 1,013 "intelligence" employees, in the first quarter of 2004 there were 1,164. Those FBI employees classified as language specialist increased modestly, from 390 in FY 2001 to 411 in FY 2004. The small number of individuals specializing in cryptanalysis -- code making and code breaking -- declined from 23 to 15 at the end of the first quarter of 2004. Data from The Transactional Records Access Clearinghouse, Syracuse University, trac.syr.edu/tracfbf/findings/aboutFBI/keyFindings.html

One apparent indication of the pre 9/11 concern about terrorism of the FBI under former President Clinton was the sharp increase in "intelligence officers" hired by the FBI in the 1990s. From FY 1992 to 2000, this category of FBI employee increased from 224 to 1,027 or 357%. (From what is known, an intelligence officer's duties are to analyze disparate pieces of information and connect the dots. Curiously, however, recent quarterly data indicate that from December 2000 to December 2001 the number of intelligence officers employed by the bureau actually had declined by 5 percent.

that it is responsible for many crimes that occur with a greater probability than terrorism and – rationally – it refused to abandon its old missions.

In the end, the FBI increased its authority – and therefore its autonomy – in the face of assaults on its reputation. The Patriot Act gave the bureau the power to subpoena business documents and transactions from a broad range of businesses without first requesting a judge's approval.¹¹³ The agency also gained legal authority in cases dealing with bombs and explosives that were formerly the provenance of the Bureau of Alcohol, Tobacco, Firearms, and Explosives as well as control over financial investigations formerly performed by Treasury and Customs.¹¹⁴ What's more, the FBI resisted political pressure to be abolished or radically reorganized around the mission of counterterrorism. Whether the bureau's independence will last remains an open question. The FBI has merits as a law enforcement agency but it has never demonstrated its ability to gather intelligence well, in part because the latter task requires different skills than the former. As of 2005, the Director of National Intelligence had authority, in consultation with the FBI director, to choose the bureau's intelligence chief. The larger reorganization of the intelligence community may yet influence the FBI.

¹¹³ Ryan Singel, "Congress Expands FBI Spying Power," *Wired*, 11/24/03; Dan Eggen "FBI May Get Reins In Explosives Cases," *Washington Post*, 11/16/03.

¹¹⁴ John S. Pistole, "Terrorism Financing: Origination, Organization, and Prevention," Senate Committee on Governmental Affairs Hearing, 7/31/03; The FBI took over responsibility for some terrorism financing investigations from the former Customs agency through a memorandum of understanding which was negotiated by the White House. Myles Ambrose, former Customs commissioner under Richard Nixon, worries that the FBI is ill-equipped to effectively perform its new duties. "The average gent is much more concerned about narcotics and money laundering than about seeing if someone is cheating on quota or evaluation issues. There's much more glamour there, however that's [quota and evaluation] a major issue in the American economy." (Ambrose, phone interview, 9/9/03). For another critical view of the FBI's accumulation of power, see Rita Katz and Josh Devon, "Perilous Power Play: FBI vs. Homeland Security," *National Review Online*, 5/27/03.

Evaluating autonomy in the FBI

The FBI follows the same pattern as the CIA—it had a relatively poor reputation among experts and among the public compared to other agencies yet it increased its authority after 9-11 and resisted a major overhaul imposed from the outside. A series of particular features—a fragmented system of powerful field divisions located in each state, bureaucratic politics, and a broad legal mandate—contribute to autonomy. But like the CIA the FBI's tasks are elemental. A contemporary state requires an effective federal police force, and policing demands secrecy, dispatch, and broad authority, a combination that produces autonomy.

The case of the FBI is unique, however, because it reveals both the costs and benefits of agency autonomy. Policymakers should want to reduce some of the bureau's autonomy in order to, for example, install a computer system to improve information sharing across the agency and across the intelligence community. At the same time, the bureau's autonomy is part of its strength. It was able to divert resources to the new threat of terrorism while not sacrificing its former missions; whether the agency should be involved in the "drug war" or whether there should be such a war at all is a question for policymakers, not civil servants. The fragmented nature of the FBI rewards entrepreneurial bureaus, at least in theory, and it allows each to adapt to local conditions. The New York City office has been concerned with terrorism since the 1980s, but the San Antonio office should, for instance, focus more on the drug trade.

At the end of the day, the FBI's autonomy may have saved it from over-investing in counterterrorism. It is by no means clear that the bureau can develop appropriate resources on its own to pursue counterterrorism and intelligence gathering. The law

enforcement and intelligence cultures are broadly similar—both are connected to elemental agencies—but the day-to-day skills required are worlds apart. Intelligence agencies collect and analyze data without worrying about legal niceties since there is no intent to pursue prosecution—intelligence collectors might even seek to convert a source into a double agent. Intelligence requires lengthy surveillance and data collection that might not produce tangible results immediately. Law enforcement, in contrast, demands scrupulous attention to the legal standards for evidence collection and offers a measurable outcome—referrals for prosecution. It is not clear whether it makes sense to put these two cultures, two missions, even, in the same agency.¹¹⁵

Scholars of administration, management gurus, and would-be reformers tout “adaptability” or “adaptive flexibility” as the summum bonum of agency development (Moore 1995; North 1990). Businesses in the private market respond to changing needs, the arguments goes, and federal agencies would do well to strive for similarly nimble structures by gaining more autonomy from the standard democratic process (Chubb and Moe 1990). The recent history of the CIA and FBI—two of the most autonomous core agencies in government—suggests that autonomy alone will not necessarily lead to innovation and adaptability. The CIA and FBI exercised autonomy to adapt to the terrorist threat on their own terms, but only to a limited degree. Their autonomy was most effective when they adapted an overarching mission to local conditions but less effective when they needed to reorganize to address the threat of international terrorism, a threat far different than the concerns of the Cold War. Understanding how agencies use autonomy—and the source of their autonomy—sheds light on why agencies should

¹¹⁵ Agencies with a clear single mission seem to be more successful (Wilson 1989, Goodsell 2005).

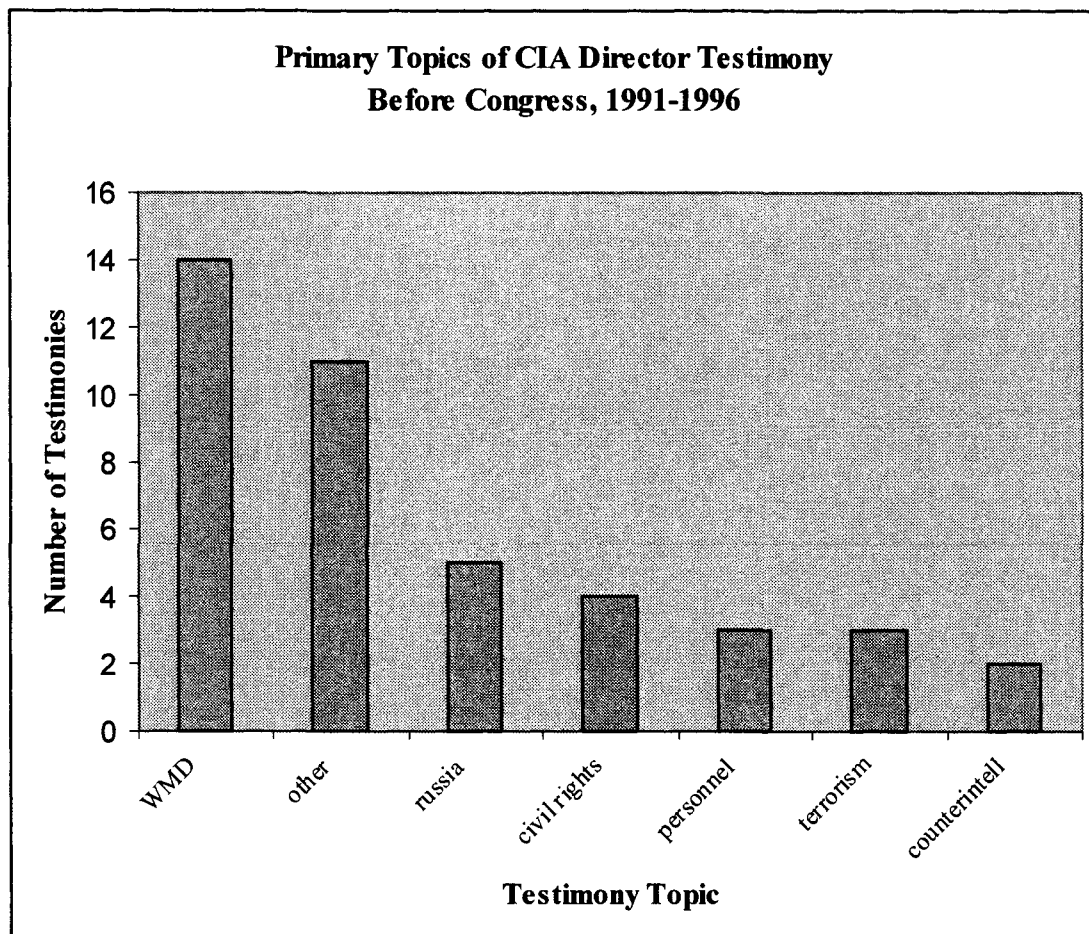
generally be focused around a single mission, a recommendation that intelligence experts have counseled for the CIA and FBI.¹¹⁶

¹¹⁶ The Commission on Intelligence Capabilities recommends that agencies be reorganized according to missions which would mean, for example, creating a National Security Service inside the FBI to handle counterterrorism and counterintelligence and a new Human Intelligence Directorate with some autonomy inside the CIA (The Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, Report to the President of the United States, Washington, DC, March 31, 2005).

Figure 1.
Percent of Respondents Rating Agency Performance Positively

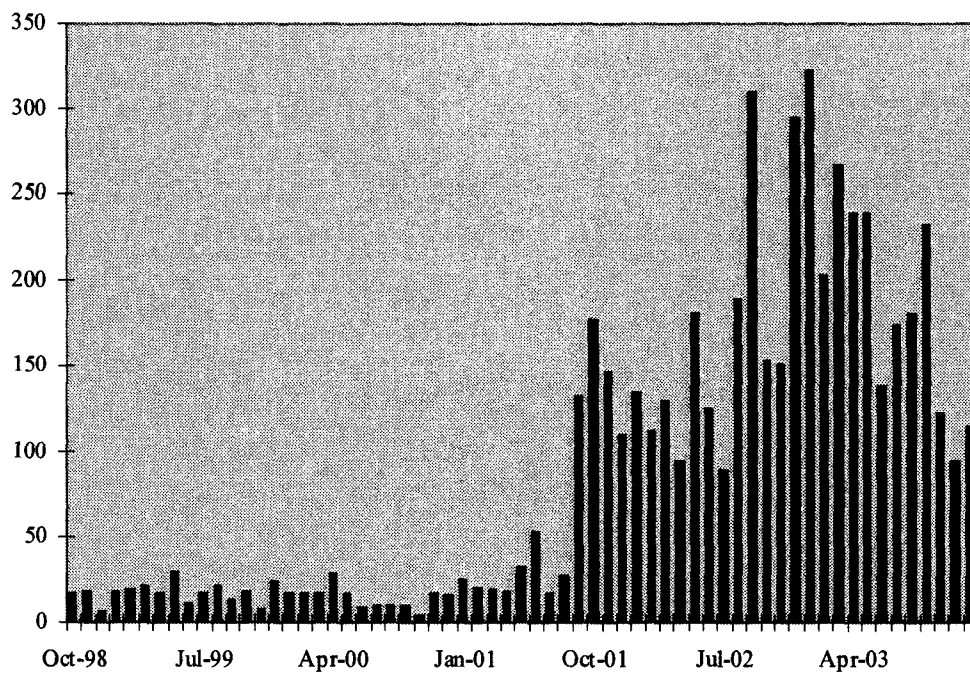
| | 2000 | 2001 | 2003 | 2004 |
|-----|------|------|------|------|
| CIA | n/a | 57 | 57 | 53 |
| CDC | 78 | 78 | 90 | 84 |
| NIH | 63 | 77 | 80 | 71 |
| FAA | 58 | 54 | 76 | 77 |
| FBI | n/a | 68 | 69 | 64 |
| FDA | 62 | 67 | 68 | 65 |
| SEC | 53 | 71 | 57 | 62 |
| DHS | n/a | n/a | 56 | 59 |
| EPA | 56 | 65 | 55 | 53 |
| IRS | 44 | 63 | 51 | 54 |

Source: Harris Interactive Poll of 2,114 adults, 2000-04. "Positive" means "excellent" or "pretty good" rating.

Figure 2.

Source: Public Testimony, US Congress, GPO 1992-1997. Also available via Lexis-Nexis.

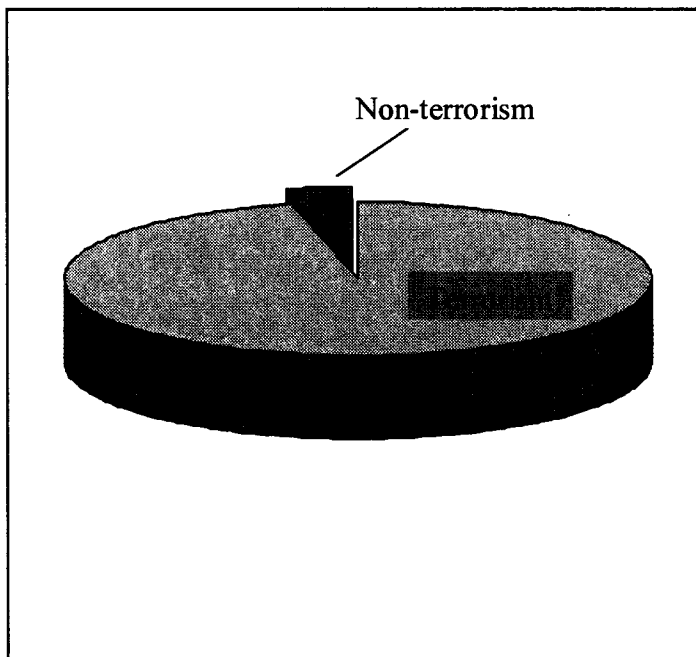
Figure 3.
Number of FBI Internal Security/Terrorism Referrals for Prosecution by Month



Source: Syracuse University's Transactional Records Access Clearinghouse, (www.trac.syr.edu)

Figure 4.
FBI Referrals for Prosecution, Percent Terrorism-Related vs. Non-Terrorism, October 2001-March 2002

Source: Syracuse University's Transactional Records Access Clearinghouse, www.trac.syr.edu



6

Politicians, bureaucrats and policy failure in the INS

The Immigration and Naturalization Service was one of the most maligned agencies in government. It became notorious for two kinds of bureaucratic failures: administrative and policy. Bureaucratic failures occur whenever bureaucracies fail to efficiently organize tasks and perform services (Scott 1981). The INS earned a reputation for slow visa processing times, lost paperwork—in one case it resorted to shredding documents when the workload became unmanageable—pervasive fraud, and poor customer service (Broder 2002; Crewsdon 1983; Graham 2004; Magaña 2003; Sutherland 1996). Recent INS leaders told Congress that the agency lacks sufficient congressional oversight, employee training, and good recruitment policies (Meissner 1999). While powerful interest groups and a lack of consistent oversight have hurt the INS, I find that the ultimate reason it developed such a poor reputation is that the public remained divided over questions of immigration. The agency necessarily fell short of accommodating both citizens who favored high levels of immigration and those who favored greater restrictions. Blaming it for bureaucratic failure is too simplistic—the agency's problems have their roots in a lack of social consensus over immigration and in inconsistent political direction. To expect dramatic innovation from the INS without addressing its root problems is to ask too much of a non-autonomous agency with a poor reputation. Immigration agencies could improve their performance and begin to shape their missions, however, by developing three things they have traditionally lacked: an

immigration profession, an adaptable organizing concept, and administrative politicians to solidify support from key elected officials.

The most notorious policy failure occurred when the INS granted visas to sixteen of the nineteen terrorists who flew planes into the World Trade Center and the Pentagon on September 11, 2001. One hijacker, Abdel Rahman, was on a State Department terrorist watch list as of 1987 and his visa was revoked by State in 1990. A year later the INS granted him permanent residency status a year later (Mylroie 2001; Bernstein 2002). Another, Ramzi Yousef, entered the US in 1992 seeking political asylum from Iraq. He caught the attention of an immigration inspector because he carried identification papers with two names other than his own, but that inspector's recommendation to detain him was ignored, and Yousef was released into the US (Bernstein 2002, 65). The agency's emergency response plans were ridiculed in the media as farcical: after the hijackers' planes hit their targets on September 11, the first order issued in the Detroit Border Patrol office was "to bring everyone in from the field to evaluate things because we thought it was dangerous out there," according to John France, the deputy chief of the Detroit sector (Brill 2002).

Policy failure was not restricted to the events surrounding September 11. The agency could not stem the tide of illegal immigration over the long term despite increased funding; the agency's budget more than tripled from 1993 to 2002 even as the number of illegal immigrants in the United States increased. When Paul Light ranked the perceived importance of government endeavors over the second half of the twentieth century, he placed "controlling immigration" 48th out of 50 policy issues. In Light's survey, only three percent of historians and political scientists ranked the government's efforts to

control immigration as “very successful” on a four point scale. Light (2002, 5) portrays immigration policy as one of government’s failures because “Congress has never been quite sure what it wants to do about immigration. It has passed laws to invite illegal immigrants to stay and laws to force them to leave, laws to tighten the nation’s borders and laws to let more immigrants in.”

These failures are the most recent in an agency that has consistently had one of the worst reputations in government. The INS long ranked among the agencies lowest in prestige in the Justice Department, and the chairman of a DOJ task force called the agency a “stepchild of the Justice Department” (Interpreter Releases 1981; US Congress 1980; Gilboy 1997). In 1980, the agency, and especially the border patrol, was described as “whipping boys and laughing stocks of the executive branch...underfunded, mismanaged, undermanned, inadequately supplied, riven by internal dissention, and politically manipulated” (Teitelbaum 1980).

The history of bureaucratic failure in immigration agencies raises several questions: despite a widely recognized poor reputation, why was the agency not able to reform its practices? What were the obstacles to major reform? Some of the most far-reaching reorganizations during the creation of the Department of Homeland Security concerned the INS. Might these reorganizations substantially alter the agency’s performance? Why or why not?

Answering these questions will add to the understanding of bureaucratic innovation, especially when the INS is compared to other agencies involved in homeland security reorganization. The Federal Emergency Management Agency was able to go from an agency labeled a “federal turkey farm” by a congressional committee to one

hailed as “the most popular agency in government” in less than a decade. The intelligence agencies, meanwhile, were able to resist major reorganization, despite several notorious intelligence failures and several serious proposals for reform throughout the 1980s and 90s. The INS, however, was not able to reform itself nor was it able to resist a massive reorganization during the creation of the DHS. This analysis will probe the sources of the agency’s weakness and its inability to develop either a good reputation or a measure of bureaucratic autonomy, or independence from the short-term preferences of the president or Congress.¹ First, it considers the major explanations for bureaucratic failure in the INS. Second, it compares the INS’ poor performance with FEMA and highlights the differences between the agencies. Third, it looks to confusion in Congress and the public over the agency’s mission as the ultimate source of destabilization. The majority of politicians and the public agree that the INS should reduce the flow of illegal immigrants and yet even here, the issue about which there is the greatest consensus, the agency has not performed effectively. The agency has been given different and often conflicting missions and, unlike FEMA, it lacks the resources to assert its autonomy and reconcile them to effectively perform even basic tasks.

Major explanations for INS’ poor performance

Rational choice models of bureaucratic politics portray some of the inherent conflict involved in immigration politics but they do not capture its source. Terry Moe (1989, 285) argues that compromise between the president, Congress and interest groups when creating an agency leads to “...poor performance: because the agency is burdened

¹ I define autonomy as multiple periods in which an institution acts independently, though not necessarily in defiance, of the preferences of the president and Congress. Barnett and Finnemore (2004) and Carpenter (2001, 17) define autonomy similarly.

from the beginning with a structure unsuited to the lofty goals it is supposed to achieve...". This seems to be true for the INS, which for many years was structured both to serve immigrants and to enforce laws against illegal immigration and passage (Tichenor 2002). As a result, both the service and enforcement missions suffered.² But other agencies have conflicting missions and still manage to perform better than the INS. The Internal Revenues Service collects taxes but also serves clients, and the Environmental Protection Agency sanctions industries while also working cooperatively with them to reduce pollution. And not every agency formed by compromise is mired in failure. FEMA was forged as a compromise between civil defense and natural disasters cultures. It took public failures and a major reorganization to repair the agency's reputation and organizational structure. Conflict in the INS, however, has been persistent and has led to administrative and policy failure. Why has the agency been so difficult to reform?

One theory is that persistent conflict comes from inordinately powerful interest groups, which represent only a sliver of the public's preferences. Vernon Briggs (2003, 203) writes that "Immigration policy has been written largely to placate special interest groups. It has become a playground for ambitious politicians to gain and retain elected offices. It has, in the process, become essentially a political policy that manifests little concern for any of its economic consequences." In Briggs' view, interest groups serve the needs of particular constituencies such as labor unions, corporations, or civil libertarians

² Kellie Lunny, "Ashcroft Separates INS into Enforcement, Service Bureaus." *Government Executive*, 2001; House Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary. Hearing on the Fiscal Year 2002 Budget Request for the Immigration and Naturalization Service. May 9, 2001; Hearing before the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, House of Representatives, 107th Congress, 2nd Sess. INS Interior Enforcement Strategy. June 19, 2002.

by encouraging particularistic legislation, while the public interest is served through policies that admit immigrants based on what skills are needed in the economy.

There is no doubt that corporations and interests groups lobby aggressively for high immigration levels to fill shortages of low-priced workers in specific sectors. In one such example, legislators in 2000 raised the number of visas allowed for H-1B foreign workers, or workers with special skills, to 195,000 for the following three years. The Senate approved the increase by a vote of 96-1 and the House approved it by an unrecorded voice vote, but the vote count obscured the divisions over the visa increase. The bill's sponsor, Robert Bennett (R-Utah), brazenly admitted the power of interest group lobbying in influencing vote decisions. He said that once the bill came to the floor and it appeared that it had enough support to pass "everyone signs up so nobody [would] be in the position of being accused of being against high tech" but in fact, he added, "there were in fact a whole lot of folks against it, but because they [were] tapping the high-tech community for campaign funds, they [didn't] want to admit that in public" (Bredemeier 2000).

Congress has repeatedly passed laws promising strong measures to curtail illegal immigration while later moderating the toughest provisions. Many of the proposals for reform discussed during homeland security reorganization—federal standards for state drivers' licenses, a computerized visa tracking system, and a tracking system for foreign students—were actually passed by Congress in 1996 but were repealed or gutted afterward.³ Other major legislation came to a similar end. Studies of the ballyhooed Immigration Reform and Control Act of 1986 revealed it to be a watered down legislative

³ The original legislation was the Illegal Immigration and Immigrant Responsibility Act of 1996. The Real ID Act of 2005 establishes federal minimum standards for driver's licenses and non-driver IDs issued by states.

compromise designed to supply agricultural interests with a supply of cheap labor while giving the appearance that the government was acting to secure the border (Calavita 1992; Cornelius 2001).

The 1990 legislation that shaped the contemporary visa system was forged in compromise and led to higher levels of immigration.⁴ The legislation, with separate provisions for different categories of immigrants rather than a comprehensive strategy, reflected the interest-group bargaining that was its source. Family reunification visas satisfied immigrants rights groups and ethnic lobbies while diversity visas gave priority to immigrants from countries that do not typically send a large number of immigrants to the United States.⁵ Investor visas rewarded rich immigrants and, especially, an army of immigration lawyers and consultants. As one immigration consultant who defended the “investor” category said rather glibly, “I believe we have done a great job with boat people and I think that a few yacht people are not going to hurt America.”⁶

Such blatant interest group activity gives rise to suspicion that immigration policy is crafted by “special interests” against the will of the people. The implication is that “special interests” are the toxin that has poisoned the INS and led to repeated failures. Criticism of the power of interest groups in immigration policy resembles Theodore Lowi’s (1969) influential diagnosis that in the 20th century the American state has become enmeshed in “interest group liberalism” in which the bureaucracy is a new form of the political machine. In Lowi’s view, particularistic interests from localities to trade groups shape policy equilibriums and stymie change that would better serve the majority.

⁴ I refer to the Immigration Act of 1990, (11/29/90).

⁵ For much of their history diversity visas favored the Irish. The word “Ireland” does not appear in the Act, though it notes that 40 percent of the available visas for fiscal years 1992 and 1994 shall go to the country that “received the greatest number of visas” under an ad hoc diversity program that provided 5,000 visas for two years authorized by the 1986 Immigration Reform and Control Act. That country was Ireland.

⁶ Seth Mydans, “Foreign Millionaires in no Rush to Apply for Visas, U.S. Finds” *New York Times* 1991.

The interest group view leaves little room for popular input in setting immigration policy. After an immigration reform movement garnered publicity in 1996 but ended with the passage of weak reform legislation later that year, James Gimpel and James Edwards (1998) concluded that “The voice of the people has had little impact on the tone or direction of the immigration debate in Washington.” Briggs (2003, 246) writes that “immigration policy had been captured by an unholy alliance that linked religious organizations, ethnic groups, libertarian economists, and the powerful immigration lawyer’s association” who, in turn, partnered with corporate interests to maintain the status quo and provide cheap labor to the United States through high levels of both legal and illegal immigration.

The trouble with the interest group thesis, like the thesis that the INS was structured to fail, is that it leaves much to be explained. If popular sentiment is at such a great distance from elite preferences on immigration, why has the representative system failed to respond to the public’s preferences? And how well do we know the public’s preferences on immigration policy to begin with? Polling data show that the general public is more likely to support decreases in immigration and more likely to see immigrants as a threat to job security and national security than are elites or policymakers in general. National Election Studies data from 2002 show that 65.9 percent of the public prefers increasing federal spending to tighten border security, while only 6.2 percent prefers decreasing such spending and 23.2 percent wants spending levels kept the same.⁷ NES studies from the 1990s depict similar sentiments: clear majorities, ranging from 50 to 60 percent of the public, favor reducing legal immigration (Gimpel and Edwards 1999, 27-59). In most surveys a gap of 25 points or more separates those who have less than a

⁷ N=771 and the question is asked in a randomized series of spending questions.

high school education from those with a college degree, with the latter much less likely to favor decreases in immigration.⁸

Polls, however, usually do not force people to make trade offs between immigration levels, the cost of goods and services, and civil liberties. Many Americans consistently respond that they favor increased controls on immigration, especially illegal immigration, in part because it is *illegal*, even though they are unclear about what their ideal point for immigration is. At the same time, the public's attitudes and actions show that many favor the cheap goods and flexible work schedules which immigration brings. Undocumented labor has been vital to American agriculture and, increasingly, to American service industries. During the 1960s, undocumented workers may have composed up to 10 percent of the labor force in border areas and today 9.3 million such workers compose about 5 percent of the workforce nationally (Fuchs 1990; Passel, Capps, and Fix 2004).⁹ While non-elites may fear job competition from immigrants and migrant workers, there is no clear evidence that immigration harms the economy or even greatly affects the employment rate, which reached low points during the booming 1990s while immigration increased (Fix and Passel 1994; Briggs and Moore 1994).¹⁰ Information about the value of immigration dominates elite outlets such as media, schools, and workplaces, leaving less space for airing fears about immigration.

Aside from possible ambiguity about the public's true preferences, there is another reason that immigration levels remain high despite opinion polls showing a majority of the public favors further restrictions: immigration is not an issue on which

⁸ Differences in opinion by party are not statistically significant in most polls.

⁹ Estimates based on the Census Bureau's current population survey.

¹⁰ The presence of immigrants in a community seems to lead to a net gain in tax revenue and increased spending (Fix and Passel 1994), but it does not seem to lead to a rise in unemployment (Briggs and Moore 1994).

people typically base their votes. Immigration is not as salient as abortion, gay rights, school choice, welfare, taxes, or civil rights, and it cuts across party and ideological divisions (MacDonald and Cain 1998; Gimpel and Edwards 1999, 41-43). With the exception of people in a few border areas such as California in the 1980s and 90s, immigration does not generate much intensity of feeling among voters.

Both the costs and benefits of immigration are generally the same for the legal and illegal varieties. Regions with large immigrant populations can face disorder in overcrowded neighborhoods, overtaxed public services, and cultural misunderstandings with native English speakers, but they can also provide cheap, flexible and willing labor. Whatever the public's ideal point for immigration is, a true assessment of immigration should account for both legal and illegal levels.¹¹ Because the public also favors some of the benefits of immigration in the form of cheap goods and services, it is likely that the public's ideal level of immigration is understated by public opinion polls that generally draw attention to the costs of immigration or to its illegal nature.

Conflicting missions and the value of a profession

The usual explanations for the INS' feebleness depict the immediate causes of the agency's weaknesses but fail to address the root causes. In the most recent attempt to fix the agency during homeland security reorganization, Congress separated the agency's service and enforcement tasks because the INS had conflicting missions: to serve people who cross American borders and to enforce the law. While this separation may improve efficiency, it will not get to the root of the problem since the dilemma of contested missions goes beyond the conflict between service and enforcement which some scholars

¹¹ Peter Skerry, "Why Separate Legal, Illegal Immigrants?" *Los Angeles Times*, 1996.

believe is the source of the agency's problems to a conflict over the agency's ultimate ends (Barrios 1999; Crewsdon 1983; Magaña 2003, 23-36). Other agencies such as the Internal Revenue Service and the Environmental Protection Agency combine service and enforcement without having the INS' poor reputation.

James Q. Wilson's criticism of the agency also points to its divided mission. He notes that the INS has a reputation for a "weak sense of mission" and "low morale" largely because it has "vague and competing goals" such as keeping out illegal immigrants while also letting in foreign workers and expelling illegal aliens while not breaking up families (Wilson 1989, 158; Morris 1984, 131-132). In this view, the conflict over goals is central to the agency's problems and it leads to diminished or stagnant funding levels along with an increasing workload. While conflict and confused goals do reduce the agency's effectiveness, these faults do not explain why the agency was not amenable to reform. FEMA also lacked a single mission at its founding in 1979, and its culture was split between national security and natural disasters. Despite the conflict, the disaster agency successfully reorganized.

FEMA was able to improve its reputation—and its level of resources—with the support of an emergency management profession that coalesced around a single mission. The agency eventually eliminated much of its national security and technical training responsibilities so that it could focus more effectively on responding to natural disasters. FEMA also had administrative politicians, including its director James Lee Witt, who supported such changes. In contrast, the INS never developed a professional culture, with connections in academia and private industry and with the ability to issue reports and self-criticism. Some of the agency's employees belonged to unions, but union

representation is not the same thing as a professional association. Professions are able to provide an agency with advice and with connections to experts who ease the flow of information and of well-trained people in and out of the agency (Balogh 1991). The INS did have some influential and ambitious leaders but many of these were interested in pursuing only part of the agency's mission and were either not capable of or not interested in restructuring it.

The INS' problem was not simply that it served two missions—service and enforcement—but that it struggled over what problems the agency existed to solve. Employees came from a variety of backgrounds and lacked a shared sense of mission and shared training and external support to harmonize goals across different parts of the department. The INS, and before it the Bureau of Immigration, did not have a ready source of competent trained labor unlike, for example, the Forest Service which hired graduates of schools of forestry or the Department of Agriculture, which found a supply of professionalized scientists recently graduated from land grant colleges (Kaufman 1960). Professionalized employees bring with them a sense of mission and competency in core tasks that employees not connected to associations and institutions of higher education may lack.

The importance of soft structures to an agency's health, such as an adaptable organizing concept and a profession, are neglected by rational choice analyses, which portray agencies as handmaidens of the president, Congress, and the courts with little independent power and little interference by social forces. The kind of calibration required for rational analysis is employed effectively in studies of agencies with clear and measurable outputs and clear disputes. The work of regulatory agencies, for example, is

relatively transparent and easily monitored by principals. Immigration policy, however, is another story because it does not neatly conform to the concentrated costs/diffuse benefits pattern of other policy areas (Freeman 1995, 8-10).¹² Immigration policy better resembles the complex and multidimensional issue of health care than it does agriculture where much of the debate occurs along a single preference dimension for subsidies. As a result, it is more difficult to achieve consensus or even compromise in immigration policy. To the extent that material costs and benefits can be identified, they cut across the usual party and ideological divisions. In contemporary politics, socially conservative Republicans join with protectionist Democrats to oppose high levels of immigration while free market “Wall Street Journal” conservatives and cosmopolitan liberals press for ever higher levels of legal immigration and weak enforcement of illegal immigration.¹³

[Insert Figure 1 About Here]

Within each of these groups there are differences over the degree to which the federal government should provide material support to legal and illegal immigrants, differences which further fracture coalitions and obstruct significant policy change. Many debates over illegal immigration deal largely in symbolic politics, with immigrants portrayed alternately as diligent workers, terrorists, criminals, and the “other” (Reilly 1999). The lack of a common language of symbols—which a profession might provide—further

¹² Quoted in Peter Skerry, “The Racialization of Immigration Policy,” *Taking Stock: American Government in the Twentieth Century*, Morton Keller and R. Shep Melnick, eds., (New York: Cambridge University Press, 1999).

¹³ There is also a divide between states along the southern American border which absorb most immigration and states further from the border which absorb less. Both of these groups contain large and small states, and the unequal burden of immigration leads to funding battles.

confuses the question of who immigrants are and further obstructs progress in debates over immigration.

A fundamental divide exists between the majority of elites, who favor relatively high levels of immigration that reflect their cosmopolitan perspective and their economic interests, and the majority of non-elites, who may have a more parochial perspective and who perceive their economic interests to be threatened by immigration. American law specifies a certain level of legal immigration, but this is not the actual level of non-citizens who enter the country annually. While the INS has been criticized for failing to keep out large numbers of illegal immigrants, another way to view illegal immigration is to see it as the result of a political consensus that favors relatively high levels of immigration. The INS does not merit blame if the political consensus, tilted in favor of elites, is out of line with the public's preferences. To the extent that the INS has been responsible for maintaining a consensus about relatively high levels of immigration, it has done a good job. Administrative and policy failures, noted at the beginning of the paper, mar its history because of longstanding confusion over what problems the agency should address.

Confusion extends to debate in a Congress that cannot even agree on the basic symbols of immigration. Calavita (1994, 77) has it about right when she argues that a series of "paired oppositions" frame debates over immigration. Debates alternate not just between two but between at least four frames: immigration as labor policy, political or religious refugee policy, family reunification, or national security. The shifting frames in House and Senate immigration hearings illustrate the confusion surrounding immigration policy. If frames are stable, then we would expect the number of House and Senate

hearings in a given Congress to roughly mirror one another. An issue such as admitting more political refugees from Communist countries might appear on the agenda, and both the House and the Senate would address it. In fact, however, the two chambers diverge sharply in the number of hearings held in each Congress, at least after 1967 (see figure 1).¹⁴ Increases in House and Senate hearing activity appear to follow different patterns, and each peaks at different times. Refugee policy and immigrant labor management appear on the House agenda from 1958-1961, but the Senate did not hold extensive hearings on refugee policy until the late 1960s and early 1970s (see figure 2). The correlation coefficient between House and Senate hearing activity is 0.1023, which is not statistically significant and does not indicate a relationship between activity in the two chambers.

[Insert figures 2 and 3 about here]

Figure 3 suggests that the House and Senate define the problems of immigration and the problems of the INS differently at different times. The figure lists the number of immigration hearings per year in each of five issue frames: political or religious refugee; labor and workforce policy, including migrant labor; family reunification and population; national security, including efforts to stop illegal immigration; and fiscal, administrative,

¹⁴ The data come from coded analysis of congressional hearings, available at the Policy Agendas Project at www.policyagendas.org. They were originally collected by Frank R. Baumgartner and Bryan D. Jones, with the support of National Science Foundation grant number SBR 9320922, and were distributed through the Center for American Politics and Public Policy at the University of Washington and/or the Department of Political Science at Penn State University. Neither NSF nor the original collectors of the data bear any responsibility for the analysis reported here. Valerie Hunt (2002) compares the hearing data in the House and Senate in a similar way, but my hearing count is slightly, though not substantially, different. In addition, I analyze hearing data by issue frame, which she does not do.

or organizational matters. No single frame dominates, and because some solutions to the various problems the INS was supposed to solve were incompatible, the agency is bound to fail. The INS let in a great number of legal and illegal immigrants and expedited the visa process for some refugees, but in the process its refugee policies were abused and it let in far more immigrants than much of the public wanted. After 1972, the House held many more immigration hearings than the Senate and, in contrast to earlier years, a great number of these dealt with administrative reforms as well as with newer issues of family reunification and homeland security, both of which reflect a growing concern about the number of immigrants in the United States. By 1991, even before the creation of the Department of Homeland Security, immigration was increasingly being defined as a security issue, another issue frame which competed with the pre-existing ones and led members of Congress and indeed entire committees to talk past one another.

Have campaigns against illegal immigration worked?

Chaotic and shifting debates over immigration, combined with the public's desire for cheap labor, or at least its ambivalence toward immigration, resulted in neutered enforcement. As a result, administrative and policy failures eroded the agency's reputation and performance, culminating in the September 11 hijackers' entry into the country. Explanations for bureaucratic failure often point to two causes not yet discussed: a lack of resources and an entrenched bureaucracy (Downs 1966, 158-166; Clark and Wilson 1961, 157). The INS, however, was given greater increases in funding than almost any other agency during the 1990s, and the agency proved so malleable after

September 11 that its duties were combined with the former Customs agency and split into three separate new agencies.

[Insert 4 and 5 about here.]

Despite an infusion of resources and a pliant organizational structure, the agency was still not able to address the problem about which there is the most agreement among the public—the need to slow the growth in illegal immigration. The US government estimates (conservatively) that the illegal immigrant population grew between 200,000 and 500,000 *per year* during the 1990s.¹⁵ Other estimates vary, but the consensus is that there are many hundreds of thousands more undocumented foreigners in the US in 2000 than there were in 1990. The INS' failure to slow the growth of the illegal migrant population confirms that disagreement over its ends frustrated the agency's ability to accomplish ends about which there exists consensus.

The 2,000 mile long US-Mexico border, combined with the 5,500 mile long US-Canada border, stretches too long to police entirely, no matter how well funded immigration agencies might be. Edward Banfield once observed that the only way to stop illegal immigration is to shoot people coming over the border, a strategy that not even Pat Buchanan would advocate. Despite the impossibility of eliminating illegal immigration, much of it could be discouraged by imposing fines and penalties on employers who hire illegal aliens, a tactic first discussed in 1951, revived again during the 1970s and then

¹⁵ Calculated from INS estimates, on the low end, and Census Bureau estimates, which are higher. See reports at: "Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000", January 31, 2003. Accessed 9/9/04 at <http://uscis.gov/graphics/shared/aboutus/statistics/2000ExecSumm.pdf>; ESCAP II October 2001 Recommendation. Accessed 9/9/04 at <http://www.census.gov/dmd/www/ReportRec2.htm>

included in a reform package proposed by the Select Commission on Immigration and Refugee Policy in 1981 (1994, 88-89; Skerry 1999, 112-113). Sanctions were first enacted into law by the Immigration Reform and Control Act of 1986 (IRCA) but these were largely ineffective notices rather than sanctions with real consequences. The Act and subsequent modifications did not substantially reduce illegal immigration. Even today, federal agents rarely scour workplaces for illegal aliens or verify compliance. All a worker has to do to prove that she is a legal alien is to present a document such as a driver's license, birth certificate, or social security card which can easily be counterfeited (Fix 1991, 306). Commissions have recommended solutions from a national identity card to a computerized registry that would provide quick verification of legal status documents, but Congress has not acted on these proposals because they infringe on most people's sense of the limits of government intrusion (USCIR 1994, 92-114). By 1996, Congress asked for pilot employee verification programs, but employer participation was voluntary, rendering these programs ineffective at catching many undocumented workers. In this respect, the United States lags behind other western industrialized nations that put work permit systems and national identification cards into place in the 1960s and 70s. These countries also adopted sanctions against employers who hired illegal immigrants (Briggs 2003, 176).

U.S. political leaders refused to employ the most effective tool for reducing illegal immigration—employer sanctions—but it was not for lack of money. Spending for border enforcement rose dramatically over the past 35 years. The number of hours Border Patrol agents spent patrolling the border with Mexico nearly tripled from 1977 to 1997, from 1.8 million to 5.1 million (Hanson, Robertson, and Spilimbergo 1999). If that was

not enough, in 1993 the Clinton administration decided it would “get serious” about illegal immigration and increase the funds allotted to border enforcement, a trend that continued under President George W. Bush. Meanwhile, interior enforcement was not a priority. In 2001, only 124 agents were assigned to tracking down employers and illegal aliens in violation of employment laws, and these activities command less than 2 percent of immigration resources (MacDonald 2004).¹⁶ The reluctance to police employers continues even with the establishment of the DHS: From August 2003-May 2004 74 employers were fined for employing undocumented migrants, with an average fine of \$9,729.¹⁷ For a nation with hundreds of thousands of employers and millions of illegal aliens who violate employment laws, the probability of receiving a fine is close to zero. The total INS budget for 2002 was \$5.5 billion—more than triple the level in 1993 and with most funds used not for interior enforcement or administrative efficiency but for operations to catch and prevent illegal immigration at the border (Cornelius 2001). During the Clinton administration, the Border Patrol grew from about 9,000 agents to about 11,000 while the president and Congress took credit for “getting tough” on immigration.

And yet illegal immigration has increased substantially according to all reasonable estimates. To add confusion to the debate the INS, and now the Bureau of Customs and Border Protection, has measured the success of its efforts by how few illegal aliens are apprehended; by that measure increased spending and human resources devoted to border enforcement succeeded because periodically apprehensions as well as

¹⁶ Interior enforcement’s duties extend beyond the place of employment to alien smuggling operations and document fraud.

¹⁷ Personal communication, US Citizenship and Immigration Services and Immigration and Customs Enforcement.

in crime in urban border areas declined.¹⁸ In 1997 apprehensions along the Southwest border fell by almost 250,000 and in 2001 they fell by 25 percent (Cornelius 2001, 665). Periodic declines do not signal a trend, however. Total apprehensions for FY 2001 still exceed the level recorded before the Clinton administration by several hundreds of thousands.

There is something peculiar if not perverse in the argument that an agency is more effective because it has a lower output. Measuring declines in apprehensions does not rule out alternative explanations since a migrant may make greater or fewer crossings depending upon the cost of crossing.¹⁹ If border enforcement increases and the cost rises, more migrants could choose to stay in the United States longer or opt not to leave depending on the chance of apprehension (Cornelius 1998; Angelucci 2004). In addition, increasing the cost of migrating near urban areas could simply push migrants to cross at more dangerous but less heavily patrolled desert areas—something that an increase of 474 percent in the number of crossing deaths along the southwest border from 1996-2000 suggests.²⁰ It could also force migrants to employ “coyotes” or guides to smuggle them across the border in secret.²¹

A better way to measure illegal immigration is by analyzing labor markets. If border enforcement succeeds and fewer illegal immigrants enter the country, we should

¹⁸ The BCBP annual report for 2003 notes that “the national strategy has succeeded as is noted by the results of the operations listed below” and goes on to specific list reductions in apprehensions and crime in urban border areas. The report does not consider the possibility that increased border enforcement simply forced illegal aliens to cross in more desolate areas or to alter their migration patterns to stay longer in the US. See “Performance and Annual Report,” US Customs and Border Protection, Fiscal Year 2003.

¹⁹ We do not know the average number of times an individual crosses changes from year to year because Immigration and Customs Enforcement refuses to release what survey data they have.

²⁰ Data from Cornelius (2001a and 2001b) and from the Mexican Ministry of Foreign Relations. This number includes deaths along the Mexican side of the border. Data on deaths along the US side of the border include more years, but they fail to identify whether the death occurred as the result of an attempted crossing.

²¹ There is some evidence from field research interviews that migrants are increasingly reliant on the services of coyotes. See (Cornelius 1998)

observe tighter labor markets and increased wages in industries and regions that are home to large concentrations of undocumented workers. Recent trends point in the opposite direction, however. Data from the Survey of National Agricultural Workers show that the percentage of undocumented immigrants among farm workers has increased during the period of stricter border enforcement (Reyes, Johnson, and Van Swearingen 2002). The number of Mexican nationals compared to the number of non-Mexican workers employed in low level food and building service jobs and construction work increased from 1993 to 1999. Assuming that many of these Mexican nationals are illegal immigrants, there is no evidence that stricter border enforcement has produced shortages of illegal immigrant workers. Given these facts, the GAO reported that “Although illegal alien apprehensions have shifted, there is no clear indication that overall illegal entry into the United States along the Southwest border has declined” (GAO 2001).

Greater spending for border enforcement did produce some measurable results—fewer illegal immigrants crossed in urban areas and instead traffic shifted to more desolate areas. This change benefited members of Congress from urban border communities because it shifted the immigrant burden on services and safety away from their districts toward less densely populated ones while they preserved the benefits of a steady supply of cheap labor. Perhaps the greatest benefit from increasing border enforcement was that politicians could take credit for “getting tough” on immigration while not suffering the economic costs required to decrease immigration. This is a species of “blame management” in which politicians claim credit for general interest legislation while rendering it weak or ineffective (Weaver 1986; Twight 1994; McGraw 1991). Legislators avoided the ire of constituents who experience the costs of illegal

immigration by passing laws with tough anti-immigration rhetoric but watered-down substance while at the same time reaping the benefits of low wage labor.

While the INS did not lack for funding increases, it also did not suffer from an immovable organizational structure. Immigration enforcement underwent the most radical reorganization of any agency included in the DHS. The immigration responsibilities of the INS and Customs were combined and then divided between three DHS agencies, the Bureau of Immigration and Customs Enforcement (ICE), the Bureau of Citizenship and Immigration Services (BCIS), and the Bureau of Customs and Border Protection (CBP). After several congressional hearings presented evidence that the combination of service and enforcement missions in a single agency contributed to at least some immigration policy failures and inefficiencies, Congress agreed to a major reorganization, effectively abolishing the structure of the old INS and giving immigration civil servants new political principals in the department. The agency's malleability, and therefore lack of autonomy, as well as its comparatively good funding levels rule out alternative explanations for its failure and leave confusion about problem definition as a root cause.

The role of the professions and political support

Was the INS at the mercy of politicians and helplessly mired in failure or could it have initiated reform on its own? The agency lacked three elements present in other agencies which developed a good reputation and a measure of autonomy: a connection to a profession, an adaptable organizing concept, and administrative politicians who could develop relationships with pivotal politicians. FEMA, for example, was able to use these

three elements to improve its reputation and to develop a degree of bureaucratic autonomy. The field of emergency management grew into a profession during the 1990s while immigration did not. There are no graduate degrees or certificates in immigration work, and though there are courses in immigration policy, there are almost no university courses tailored to prepare immigration staff for their careers. In addition there are few immigration professional conferences and almost no groups independent of the agency supporting its work.

Few interest groups of any kind support the agency's goals because its clientele is weak and ill-defined.²² Refugees and non-citizens do not carry much weight in the American political system, except insofar as they are a concern for voting citizens. Another such example is the Bureau of Prisons. Wildavsky (1971, 390) noted that the prison population is "hardly an ideal clientele" to further the interest of the agency because most people care only that the agency is able to keep its clientele locked up.²³ There are immigration interest groups to be sure, such as La Raza, border patrol labor groups, the Center for Immigration Studies, the Federation for Immigration Reform, and the even National Governor's Association. But these groups have narrow constituencies and goals and are not consistently involved in promoting the agency. In other words, there is no immigration profession to unite the goals of these diverse interest groups with the agency, no set of common interests and goals, and no common language. The incoherence inherent in the agency's work—something which could be ameliorated by a

²² There are employees unions but these are different than professional associations because they support benefits for civil servants rather than a general mission or organizing concept.

²³ The Bureau of Prisons has taken extraordinary efforts to develop a relationship with Congress in the absence of interest group support.

profession and an organizing concept—exacerbates the difficulty of defining what problems the agency should solve and further increases the likelihood of failure.

Agencies can sustain or improve their reputation by being responsive to the concerns of the public and of elites and then by communicating those responses to stakeholders, in other words by developing consistent and formal feedback mechanisms with Congress or the president. The CIA maintains a very close relationship with its congressional committees and, in many cases, with the president and the national security council. FEMA, at its reputational peak, had a public affairs office which would respond immediately to requests by governors or members of Congress and respond not much later to individual members of the public.

Consistent communication with political actors is most effective when it anticipates the needs of the public. During the progressive era, some agencies gained autonomy when politicians believed that their connection to social movements gave them the foresight to create new programs which anticipated the needs of the public better than politicians could do through legislation (Carpenter 2000, 124). Contemporary agencies are more likely to develop a connection to a profession than to a social movement, but in both cases the agency develops special local knowledge which politicians come to rely on by giving a great deal of discretion—sometimes termed “autonomy”—to the agency.²⁴

The INS’ relationship with Congress and the executive was one of confusion rather than discretion because the agency attempted to satisfy particular (often conflicting) requests from individual policymakers. The agency was not required to heed every request from a federal or local official, but individual representatives are able to put

²⁴ The clearest statement of the importance of local knowledge to large systems is Hayek (1945).

special pressure on the agency, a process which may benefit the representatives but hurt the agency's mission and eventually its reputation. In some specific kinds of immigration cases, like applications for nanny and permanent resident status, legislators and governor's offices may appeal directly to allow an individual to enter the United States. In many cases, this pressure works. According to one INS officer "They [front line case officers] are deathly afraid of—as far as supervisors—complaints from congressmen or any agency that allocates money." If elected officials complain or seek retribution, the agency's institutional memory responds. One agency officer said that "the port director sets port policy based on port experience, which means past trouble. Unfortunately they tend to be gun shy. It affects morale" (Gilboy 1992, 287).

Such responsiveness poses a problem when the demands of local officials do not serve the broader goals of the agency. Casework may reflect the preferences of the politically represented, or of the most powerful groups, but not of everyone. This tendency may create confusion in an agency's mission and decrease the effectiveness of certain policies (Kaufman 1960, 80) or affect other agencies' goals (Calavita 1992). Another problem is that casework has low visibility and so its effects may not be considered in policy debate (Gilboy 1992, 308). The effect local casework has on changing who immigrates and how many people immigrate may not be factored into policy debates.

Local officials tend to use the INS in order to fulfill particularistic interests, and Congress similarly engages the agency to address particular problems. The House and Senate Judiciary Committees and their respective immigration subcommittees handle most immigration policy-making, but other committees have extended their oversight to

reach the agency, creating further confusion about what problems the agency exists to solve. The Senate Foreign Relations committee has asserted its right to make immigration policy related to political refugees, and the House Select Committee on Homeland Security claimed jurisdiction over some immigration agency affairs, though the extent of its power remains undefined (King 1997, 11).

Immigration after DHS

Immigration policy underwent a massive change with the creation of the DHS when its enforcement duties were separated from its service duties and these were moved from the Justice Department to separate directories in the new department, effectively ending the life of the INS. One of the primary innovations of the reorganization was to create a unified inspection operation at the border. Prior to the reorganization there were three kinds of inspectors charged with enforcing immigration, customs, and animal and plant laws, respectively. These were consolidated into one inspector position to create “one face at the border,” saving time and manpower (Wasem, Monke, and Vina 2004, 1). After 2001, many of the statutory revisions made after the 1993 World Trade Center bombing were finally implemented.²⁵

The chief benefit of bringing organizational change to federal immigration agencies is the ability to refocus the agencies’ mission on domestic security. The reorganization could provide greater oversight of immigration officials and increase their incentives to secure the borders and track the immigrants most likely to pose a threat. If

²⁵ For example, in 1996 Congress gave border inspectors more enforcement power and first required the entry-exit system known as US-VISIT. Before 1996, immigration inspectors referred aliens lacking proper documents to specialized INS officers who handled enforcement. Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 (P.L. 104-208) and the Antiterrorism and Effective Death Penalty Act (P.L. 104-132).

terrorists enter the United States, officials at the Department of Homeland Security will be blamed; the top officials in the new department have incentives to hold their subordinates accountable for any attacks.

Despite the major overhaul, many of the sources of the INS' policy and administrative failures persist in the DHS. Even with the new emphasis on domestic security, the issues of labor, refugee and family reunification policy remain significant, and sometimes incompatible, concerns. Some of the sources for the agency's policy failure lie in Congress, where restructuring the committee oversight system could lessen disagreement over the agency's responsibilities and tasks. Centralizing oversight authority in single homeland security committee could lessen confusion about the agency's problems and bring the counterterrorism and security missions into greater focus, attended to by committee members who have some sense of how immigration policy fits with other goals.²⁶

Still, the old problems will remain. The agency still suffers from uncertainty about the problems it exists to solve, a lack of a profession to assist with training and to hone a mission, and a lack of the kind of communication with Congress and the president in which political actors defer to the agency's judgment. The result is more confusion over the agency's mission and potentially more failures.

²⁶ In a seminal work on policy implementation in the INS, Calavita (1992) shows how a protracted struggle among the INS (a unit in the Department of Justice), the Department of Labor, the State Department (intermittently), and the agriculture committees of Congress led to an impotent border security policy.

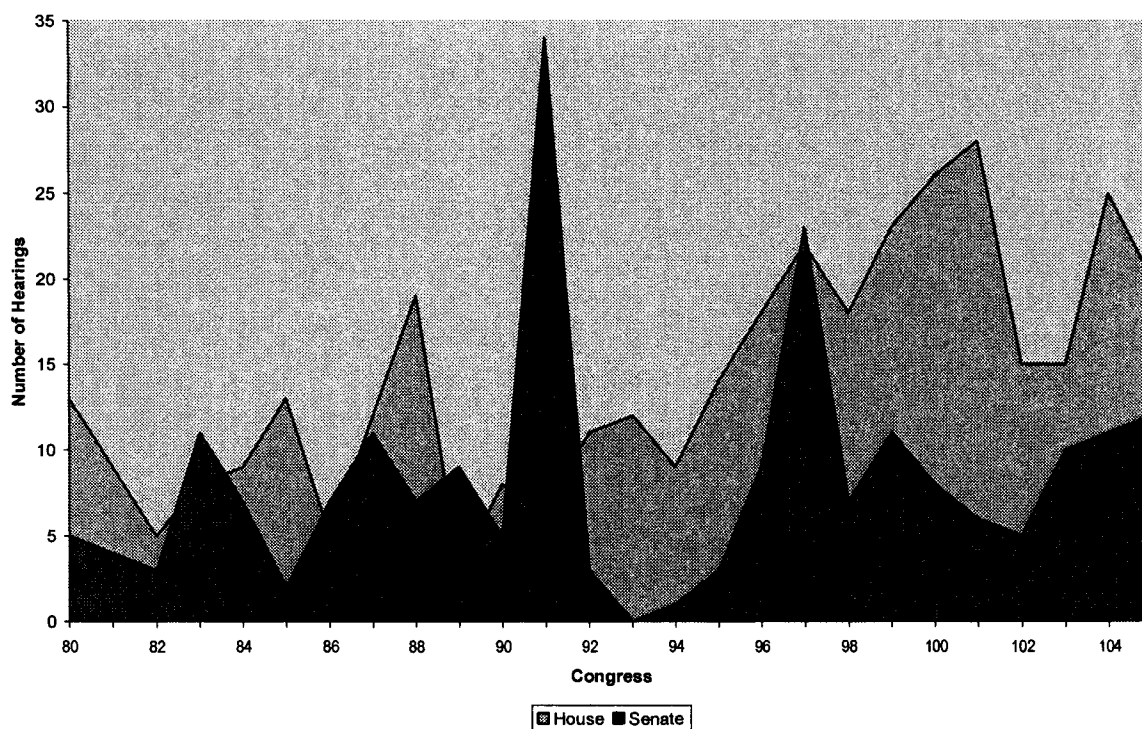
Figure 1. Support for Rights of Immigrants and Extent of Immigration

| Immigration levels should be | Rights of immigrants should be | |
|------------------------------------|--|---|
| | <i>Greater</i> | <i>Fewer</i> |
| <i>Expanded or continued as is</i> | Immigration rights and ethnic organizations such as the Mexican-American Legal Defense Fund, some churches | Free-market libertarians, major employers |
| <i>Restricted</i> | US Commission on Immigration Reform, population control and environmental groups | Restrictionists, Federation for American Immigration Reform |

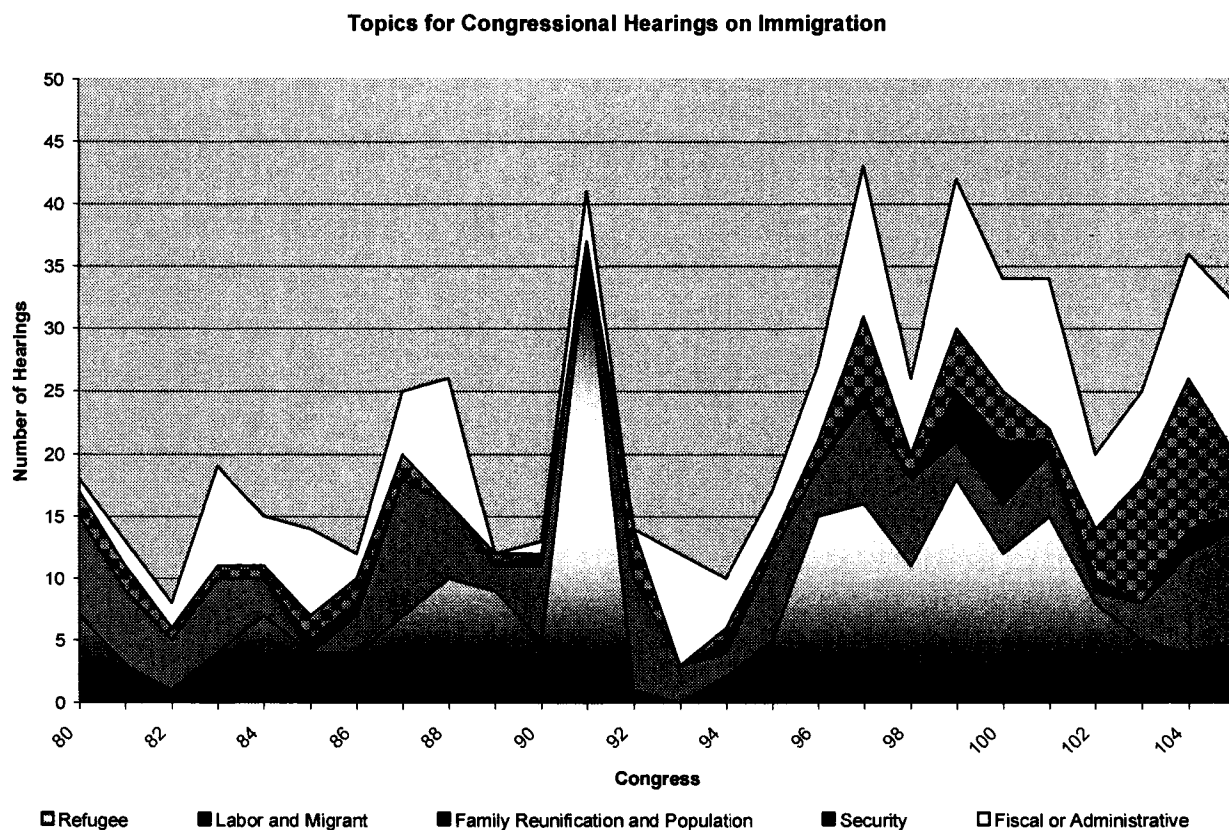
Source: Tichenor (2002), 1-45.

Figure 2.

House and Senate Immigration Hearings



Source: Data from the Policy Agendas Project, University of Washington and Pennsylvania State University (see fn. 9 for complete citation).

Figure 3.

Source: Data from the Policy Agendas Project, University of Washington and Pennsylvania State University (see fn. 9 for complete citation).

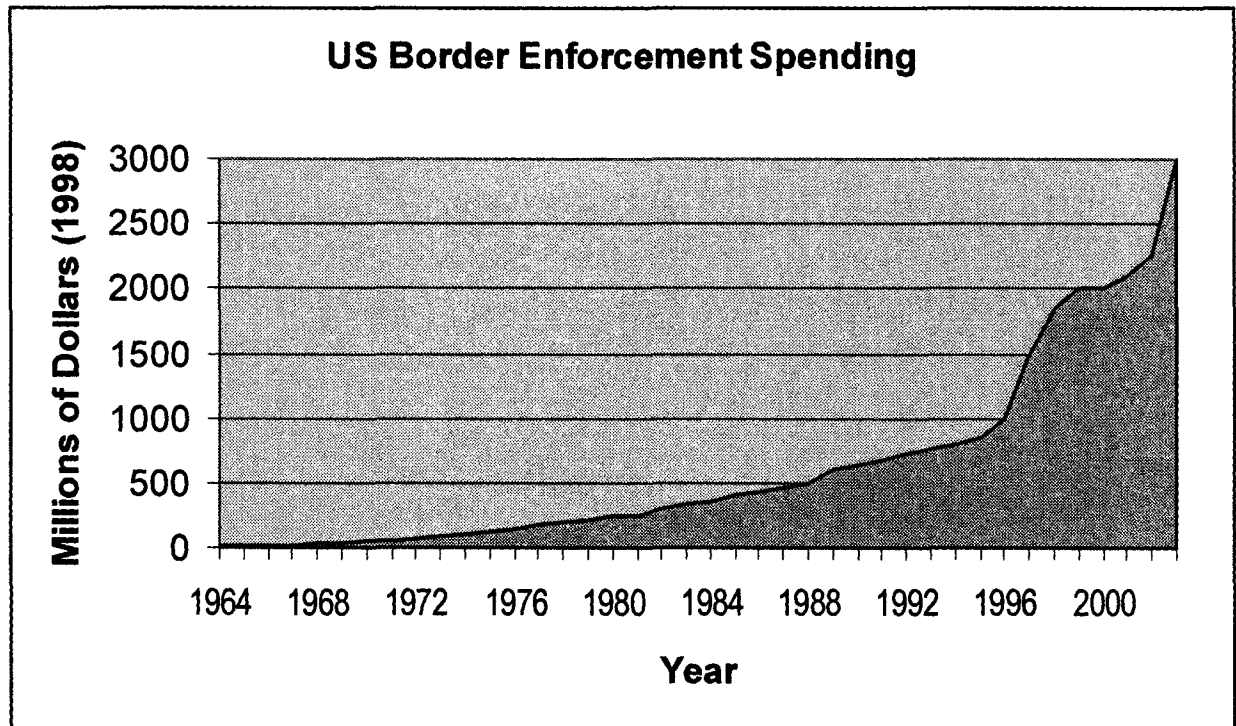
Figure 4.
Undocumented Foreigners in the US, 1980-2000

| Year | Millions of Unauthorized Foreigners | Annual Average Change |
|-------------|-------------------------------------|-----------------------|
| 1980 | 3.0 | |
| 1986 | 4.0 | 167,000 |
| 1989 | 2.5 | -500,000 |
| 1992 | 3.9 | 467,000 |
| 1995 | 5.0 | 367,000 |
| 2000 | 9.0 | 800,000 |

Note: Approximately 2.7 million immigrants were legalized in 1987-1988.

Source: The Urban Institute. Reprinted in Philip L. Martin, "The United States: The Continuing Immigration Debate," in *Controlling Immigration*, Cornelius et. Al., eds (Stanford, CA: Stanford University Press, 2004), 61.

Figure 5.



Source: US Bureau of Immigration and Customs Enforcement

7

Innovation in the NRS: regulating for air safety and security

Aviation regulation exists amidst the larger environment of what has been called the “new regulatory state”: instead of strong federal agencies that command private actors to meet standards, regulation occurs through a web of interrelated public and private organizations that both regulate and cooperate with industries to protect a general right or good (Braithwaite 2000). Is the new regulatory state better than the old? It is impossible to provide a simple answer, but there are key differences. Regulatory agencies are less powerful than they once were, and many are less autonomous and more responsive to the preferences of industries or Congress than were powerful agencies throughout much of the 20th century.¹

The history of the Federal Aviation Administration presents a puzzle that illustrates both the advantages and limits of the new regulatory approach. While industry and regulators combined to greatly reduce the probability of airline crashes over the decades following World War II, counterterrorism security did not progress at the same pace, resulting in rare but devastating disasters in the 1990s and the well-known events of 2001. It is by no means clear that more forceful regulation would have handled the problem any better, but the contrast between regulating for safety and regulating for security points to the limits of the current approach for innovating to solve new problems. This chapter traces how the FAA defined the problems of security and safety differently

¹ Daniel Carpenter (2002) shows how social groups can have greater influence in the late 20th century regulatory process than do political institutions. He claims that political influence over drug approval by the FDA from 1977 to 2000 operated through pressure from interest groups and the media rather than changes in partisanship of congressional majorities, oversight committees or presidents.

resulting in sustained attention to the latter. The agency also faced incentives to cultivate a good reputation for safety among the flying public rather than for particular skills favored by powerful interest groups.²

Contrasting the FAA's regulation for safety with its approach to security provides fertile empirical ground for testing out ideas about bureaucracy and administration. Improvements in airline safety follow both event-driven and continuous processes while responses to security concerns are more often haphazard and symbolic.³ What explains these differences? In addition, the FAA has high visibility among the general public, and the public holds the agency in relatively high regard. Even so, the FAA has not been able to use its reputation to gain more autonomy from elected politicians; regulation almost always occurs only when it suits the explicit preferences of industry, Congress, and the president, and it is difficult to identify an explicit agency perspective. Why has the FAA not been able to follow the Federal Emergency Management Agency in cultivating a reputation for fulfilling a need among a sector of the public in order to gain autonomy from politicians?

The answers to all of these questions can be understood by grasping the incentive structure at work in the agency. The FAA's good reputation is due largely to its association with public safety; the public associates the agency with important safety functions and blames the airlines for lapses (when it assesses blame at all) (Cobb and Primo 2003). There is little incentive for the FAA to innovate to improve airline security since hijackings and bombings are rare and the industry (and typically Congress) opposes

² The FAA is sometimes accused of being "captured" by the aviation industry. The FAA is most useful to industry as a veto point blocking expensive reforms and as a reducer of transaction costs in setting standards but the agency performs neither of these tasks consistently enough, as this account shows, to fully serve the industry.

³ Continuous processes refer to those that proceed according to the standard tenants of bureaucracy found in Weber (1946); they occur in response to institutionalized and routinized problem-solving procedures.

most fixes as too costly. The agency's reaction to security lapses is event-driven and symbolic: after a disaster the FAA (along with the NTSB) investigates the event and announces measures to remedy the supposed cause, solidifying its reputation as a guardian of security, even though the remedies are often temporary or never fully enacted.

Comparing regulation for safety with regulation for security highlights the importance of problem-definition and problem-solving in public policy—two areas often left out of analyses of policy outputs (Lindblom and Cohen 1979).⁴ Theories that focus only on legislative mandates and the relative bargaining position of agencies or business neglect some of the most interesting questions.⁵ The FAA, like many agencies, has the legal authority to tackle a broad mandate in both air safety and security.⁶ The original 1958 bill aimed to “to create an independent Federal Aviation Agency, to provide for the safe and efficient use of the airspace by both civil and military operations and to provide for the regulation and promotion of civil aviation in such a manner as to best foster its development and safety.” If the FAA has responsibility for anything that might threaten the development of air travel, why the difference between regulating for safety and for security? The agency's organizational culture, supported by professional networks and

⁴ Charles Lindbloom and David Cohen (1979, 50) write that “we do not discover a problem ‘out there’; we make a choice about how we want to formulate a problem.”

⁵ Terry Moe (2005) criticizes the dominant approaches to the study of institutions for obscuring power relations in their focus on cooperation.

⁶ The bill was first introduced as S. 3880 by Senator A.S. Mile Monroney (D-OK) on May 21, 1958. Subsequently, the Federal Aviation Act of 1958 (P.L. 85-726) established the FAA. Section 103 of the Act outlined the administrator's main responsibilities as follows: “(a) The regulation of air commerce in such a manner as to best promote its development and safety to fulfill the requirements of national defense; (b) The promotion, encouragement, and development of civil aeronautics; (c) The control of the use of the navigable airspace of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both; (d) The consolidation of research and development with respect to air navigation facilities, as well as the installation and operation thereof; (e) The development and operation of a common system of air traffic control and navigation for both military and civil aircraft.” Summary of legislation available at FAA History Office, “Chapter 6 The FAA and Flight Standards: History, Organization, and the Public Law,” *Airworthiness Inspector's Handbook*, Vol. I (Washington, DC: Department of Transportation, 2005).

public expectations, emphasizes the safety problem, a process that shapes routines and responsibilities inside the agency. Slight differences in routines multiplied many times over lead to widely different policy outcomes: improvements in airline safety have been one of the most remarkable accomplishments of 20th century regulation while security remains a perplexing and misunderstood problem. More broadly, this account suggests that problem-definition and problem-solving can matter more in policy outcomes than legislative or executive mandates, especially when it comes to innovation and inattention to crucial policy areas.

Explaining regulation

The dominant account of agency behavior—which I label positivist—borrows assumptions from economics and is sometimes called “new institutional economics.” While useful in explaining probable outcomes, it does not explain the process of reaching outcomes.⁷ The positivist account focuses on individual incentives, an approach that gives these models explanatory power lacking in models of macro-processes; its central assumption is that by understanding individual incentives we can predict and understand collective outcomes. Institutions are created, the theory holds, in order to reduce transaction costs by installing regularity and improving accountability and predictability (North 1990; Powell and DiMaggio 1991; Williamson 1981). One branch of the tradition, the (no longer so new) “new economics of organizations,” concerns how legislatures structure formal and informal institutions to shape policy outcomes. This approach combines “a contractual perspective on organizational relationships, a theoretical focus

⁷ Chisholm (1995) criticizes prominent contemporary approaches to institutions for neglecting how actors arrive at the set of choices they pursue. This account of FAA regulation builds on his criticism of “positivist” analyses of agency behavior.

on hierarchical control, and formal analysis via principal agent theories” (Moe 1984, 739). The central drama in this analysis is bargaining over institutional rules—often the statues authorizing federal agencies—because these rules affect policy outcomes (Powell and DiMaggio 1991, 1-40). Positivist “new intuitionist” accounts privilege micro-processes over the “old intuitionist” focus on long term historical trends, socially constructed processes of punishment and reward, or complex and layered histories that assume outcomes are explainable but largely contingent (Parsons 1954; Stinchcombe 1964; Weber 1946; White 1948).

The new institutional account is not a single theory but rather a set of assumptions about how to best study and understand institutions. Positive theory is best at predicting probable outcomes, often after-the-fact, but it does not explain how actors decide on particular outcomes and it leaves out entirely the process of problem definition that was identified in the old institutional literature on “non-decisions” (Bachrach and Baratz 1963). To truly grasp the process by which institutions innovate requires understanding history, and specifically the processes of problem definition, timing, sequence. Each of these processes shapes the culture of an organization that in turn reinforces the formal and informal institutions that shape outcomes. How an institution defines a problem shapes which solutions are on the table and which are excluded without debate – a process excluded from positivist accounts. In addition, an organization may confront two different problems and have the same general preferences and values but innovate in one area and not another because of the timing and sequence in which it addresses problems. Legions of comparative studies between the United States and Europe have found that

timing and sequence matters in shaping outcomes between two similar states facing similar problems, and the same holds true for two different federal agencies.⁸

Rather than focus on legislative bargaining over rules, historical analysis of institutional innovation concerns the institutions themselves. Institutions—often the formal and informal rules and procedures in federal agencies—have independent effects and are at the center of problem definition and the timing and sequence of decisions. To be sure, researchers cannot ignore the effects of the legislature and social networks that surround agencies and influence their environments, but even so federal agencies are at the center of the processes by which policy problems are identified and innovations are prioritized and acted upon.

What might a study of agencies, rather than micro-processes or legislative bargaining over rules, reveal? Close empirical accounts of agency history show that the features of the problem-definition and problem-solving phases are key; these include the structures, cultures, and incentives that shape how an agency decides where to focus *responsibility* for innovation. The FAA's history of regulating for safety compared to regulating for security shows that both political incentives in the new regulatory state and the agency's culture evolved to make parts of the agency responsible for reducing the probability of an airline crash while no major part of the agency was responsible for reducing the probability of airline hijackings and attacks. Responsibility is of two types: the legal authority given to an agency and the expectations of pivotal politicians and groups among the public about what an agency exists to do. The FAA as a whole was tasked with protecting airliners against hostile attack—and it made some innovations,

⁸ For a review of these see Orren and Skowronek (2004). Institutional and constitutional rules matter as well, of course. See Steinmo (1993) for an illustration of how different constitutional structures in the US, UK, and Sweden shape contemporary policy outcomes.

including the introduction of baggage screening for all carry on luggage—but regulation for security never became institutionalized. Defining the agency’s problem or task as safety led it to acquire particular expertise and networks to the exclusion of others devoted to security. Understanding the problem-solving and problem definition process as well as this sequence of events helps to explain why the FAA received credit for innovating in the safety arena but was rarely identified with security and, thus, had few incentives to innovate there.

The birth of aviation regulation

The first major body to regulate aviation in the US was the Civil Aeronautics Board, created in 1938. The divisions inherent at the dawn of aviation—between civilians and military, private plane owners and commercial carriers, industry and administrators—frustrated attempts at regulation; for example the CAB took 22 years of judicial hearings and formal communication to conclude an investigation into what level of domestic passenger rates would be reasonable (Redford 1969). By mid-century aviation was hardly less chaotic than during the barnstorming era. The CAB made slow progress toward regulation after disastrous crashes and midair collisions but the rate of regulatory growth paled in comparison to the growth in air traffic. When James Landis (1960, 23) submitted his 1960 report on the regulatory process to president-elect Kennedy, he wrote that the lack of national planning and policy direction was “most obvious” in transportation.

Aviation regulation was rife with technical confusion, lack of expertise, and competing interests. Congress reorganized the sector in the fashion of the day, by

centralizing aviation promotion and security in the independent Federal Aviation Administration in 1958.⁹ Eight years later the agency was made a branch of the Transportation department. Its promotion mission soon took a back seat to safety but its basic mission remains the same to the present day: to certify the airworthiness of new aircraft, to maintain the air traffic control system, and to regulate pilots, airline operations, and maintenance (Kent 1980; Rochester 1976). In short, the agency was technically responsible for all that might threaten air travel.

Autonomy and the FAA

Despite having prominence and a relatively good reputation among the public for air safety, the FAA lacked autonomy. It nearly always reflected the preferences of the president and the congressional majority and in dealing with the aviation industry it relied more on persuasion than compulsion. For instance, the agency has had difficulty in requiring that commuter airlines be equipped with devices that warn pilots who are in danger of crashing into a hilltop or rough terrain. Commuter airlines often operate with few capital reserves and were reluctant to buy the upgrades even though the devices had been on jets for years and had greatly reduced accident rates.

Agencies earn a reputation through one of two avenues: either by the nature of their tasks or by fulfilling a need among the public or elites. While the military and some law enforcement agencies might possess autonomy relative to other agencies because their tasks are essential to the preservation of the state, the FAA's tasks are not so essential or elemental. Other regulatory agencies gain autonomy through developing a

⁹ US Department of Transportation Act, PL 89-670, USC 1651; History Staff, Federal Aviation Administration, *Federal Airport Policy, 1938-1970*, (Washington, DC: US DOT, 1978).

reputation for meeting the needs of a particular constituency and for acting as a conduit between that constituency and politicians. In both of these cases the source of reputation—whether in a particular social group, pivotal elected politicians, or the majority of the public at large—matters because that is where the agency will be most responsive. The FAA’s reputation was never good among elites but among the general public it had a useful reputation as a defender of safety. Nevertheless it was never able to gain autonomy, as the account that follows demonstrates. Public opinion polls show that the FAA has a slightly worse reputation than the most trusted agencies such as the Centers for Disease Control or the Federal Drug Administration, which both address public health (see figure 1). Nevertheless, the FAA has had a better reputation than the Immigration and Naturalization Service which was long regarded as one of the worst performing agencies in government. Among policy elites responsible for aviation, the agency’s record is mixed: it has been repeatedly criticized for weak enforcement and bureaucratic delays. Its strength lay in the public’s assessment of the agency as a better than adequate force for safety in the skies. The agency issued guidelines after crashes and safety scares that put it in the spotlight and ensured that the public associated the FAA with aviation safety. Experts, however, were not convinced and they blamed the agency for rarely following up on its ambitious guidelines. The agency’s incentive structure rewarded actions that would put the FAA out front in safety issues—bolstering its reputation among the public—but few incentives led it to stand up to Congress and the airlines to require tough and expensive standards absent an overwhelming consensus for innovation. In the end, the FAA was never able to build on its reputation and act independently of the preferences of the president and Congress.

[Insert figure 1 about here]

Had the agency been able to build a reputation for meeting the needs of an influential social group—whether industry or safety advocates—Congress might have granted the FAA a degree of autonomy, especially if the agency was able to satisfy and communicate with the group better than were politicians themselves. In reality, the agency’s reputation among the general public was not strong enough for politicians to want to defer to the agency. In addition to its inability to develop a reputation, three structural constraints limited the FAA’s power to innovate independently of political commands. First, the agency’s mandate requires that it submit new regulations through an extensive review and comment period, effectively forcing the agency to rely on persuasion more than compulsion. As Thomas Birkland (2004) has noted, the FAA is “attention focusing, not solution forcing.” Second, the agency exists in the new regulatory state; a host of public and private entities that set and monitor aviation standards dilute the agency’s influence. Third, conflict and fragmentation within the agency limits its ability to act with a unitary voice (Kent 1980). Commercial airlines (represented by the Air Transport Association), airline pilots, airport operators, private plane operators and military representatives all vie for influence within the agency. The agency’s management mediates between these groups and the often isolated and antagonistic air traffic controllers.

The Loss of autonomy in the NRS

The FAA's lack of autonomy stems in part from the changing nature of federal control in what some scholars term the "new regulatory state" (Braithwaite 2000). The FAA was created at a time when fluid and interrelated regulatory networks began to replace command and control agencies that had dominated the 20th century. The 19th century was the province of federalism and limited government, while the early 20th century saw the rise of the bureaucratic state outlined in chapter three. By mid-century, regulation took a new form: Congress delegated authority to executive agencies that were given a largely free hand except when the Court found they violated individual rights. New flexibility in how to implement rights allowed an overburdened judiciary to permit bureaucracies to both regulate and cooperate with industries to experiment how to protect a general right or good (Dorf and Sable 1998).

The new regulatory state holds out the potential to be more adaptable than the old model, and in some cases it may better accomplish general ends. Nuclear power, for example, has been regulated in part by private agreement among producers ever since Three Mile Island (Rees 1994, 24). Successful regulation in the new environment requires strong networks among private actors who do much of the necessary communication and monitoring. Some of the major aviation disasters occurred when private actors failed to monitor each other and maintain common standards.¹⁰ Even though private actors play a greater role in the new regulatory state, federal agencies can still be effective. Public entities can provide information and oversight of private institutions and regulate more fully in the few areas deemed most important or inherently governmental. If, however, private regulatory institutions are also weak, then the

¹⁰ The 1996 crash of ValuJet 592 is the most famous such example (Langewiesche 1998).

regulatory system may lack an institution strong enough to lead innovation. The interests that structured the agency originally may be too powerful for would-be innovators to overcome, even if they believed that the agency should reorient itself to take on new problems.

Autonomy and problem definition

The history of aviation is both unique and emblematic of changes in regulation over the 20th century. Passengers and the airlines themselves demanded regulation with an intensity matched by no other industry. The public has far less appetite for risk in aviation than in other spheres of life; safety often trumps other concerns no matter what the cost. At the same time, aviation followed the same regulatory trajectory as other sectors: it went from a chaotic unregulated market to attempts at regimented and hierarchical regulation. Like other agencies, the FAA faced greater and greater complexity along with stagnant federal funding and an expert consensus for more deregulation. Eventually, the aviation sector adopted a more decentralized regulatory system in which overlapping public and private authorities developed and monitored standards (Rochester 1976).

In the decentralized new regulatory state, a single federal agency operates less through direct authority than through the wise use of information and persuasion. Like many such agencies, the FAA is relatively non-autonomous. Congress and the president do more to structure the regulatory environment than the agency can do. On the rare occasions that the FAA develops policy innovations opposed by Congress or the president, politicians prevail. This brief history of aviation regulation shows that time

after time the FAA recommended safety and security measures that both the legislative and executive branches postponed indefinitely. The FAA has some independent power to block innovations, however. The agency can stall new standards and policies recommended by Congress and not opposed by industry, such as the passenger screening system. The power to delay alone, though, does not provide sufficient grounds for autonomy.

The FAA's general lack of autonomy in taking on new tasks shapes problem definition within the agency: the FAA's legislative mandate gives it responsibility for both safety and security but its earliest problem was that flight was unsafe. The public demanded that air travel (as well as other spheres of life) be safer, and politicians responded by helping to structure the agency's organization and culture to discover and implement ways to reduce crashes and accidents. In the 1960s and 70s hijackings captured the headlines and led the agency to add security staff and propose a variety of programs—including air marshals and baggage screening—to stem air terror. The security innovation was temporary, however, because the FAA was structured to address safety first. Insofar as the agency could trade on a reputation, that reputation was for guarding air safety.

Regulating for safety vs. security

Commercial aviation has gone from being a risky endeavor to becoming the safest mode of transportation.¹¹ Even as recently as the 1960s, the odds of a passenger being killed in an air accident were greater than the odds of a person being struck by lightning.

¹¹ From 1991 to 2000 airlines had far fewer average passenger deaths for every 100 million passenger miles than other forms of transportation: Automobiles, 0.88; Trains 0.08, Buses, 0.03, Airlines, 0.02 (Data from National Safety Council, Inquiry Facts, 2002).

The leading scholar on aviation safety, Arnold Barnett (1979; 1989), has tracked the steady improvement of airline safety since the dawn of the jet age. He measures safety by determining the probability of dying on a randomly selected flight.¹² Consider the odds:

[Insert 2 about here]

The fatality risk of air travel dropped by more than half between 1960 and 1975 and many times more during the following years. The decrease in death risk is statistically significant over time, which suggests that deliberate efforts to reduce risk by airlines, regulators, and manufacturers worked. Accidents are so rare that Cobb and Primo (2003, 46) write that “crashes have now become essentially random events that are unlikely to be eliminated.” Crashes, however, are *not* random, strictly speaking. They typically have identifiable causes that could have been addressed before the crash if those involved had enough knowledge. Instead, crashes are very low probability events, and the task of airline regulation has been to decrease the probability of crashes.¹³

[Insert 3 about here]

Aviation security did not achieve the same linear reduction in risk as did safety regulation. Figure three shows great variation in the number of hijackings per year over

¹² Barnett does not account for the length of a flight because most accidents occur during takeoff or landing; See “Statement of Arnold Barnett,” Aviation Safety Issues Raised by the Crash of ValuJet Flight 592, Hearing before the Subcommittee on Aviation of the Committee on Transportation and Infrastructure, June 25 (GPO, 1996), 363-73. Comparisons of flying with other transportation modes accessed 3/20/05 at <<http://www.anxieties.com/flying-howsafe.php>>

¹³ Perrow (1984) claims that commercial airline safety is such a complex system and fatal crashes so rare that attempts to reduce the fatality risk may actually increase it by adding to the complexity and unpredictability of the system. Langewiesche (1998) builds on Perrow’s analysis.

30 years. No hijackings were recorded in the domestic US from 1992 to 2000, but that period was followed by the most severe air terrorism in US history. Other countries experienced hijackings during the 1990s, and American authorities knew that the threat had not dissipated. While hijackings have been the most prevalent air security issue, authorities also had to plan for airport incidents, pilot malfeasance, and passenger unruliness (also known as air rage). These security threats were usually discussed and addressed separately, and the FAA made few attempts to handle them under a single adaptable yet unified approach similar to the all hazards concept in disaster management.

FAA's precarious reputation for safety

The FAA developed a reputation among the general public for safety but not one for security. By 2001, it was one of the most well regarded agencies in the federal government, probably because the public associated the agency with safety after 9-11. The agency's reputation among elites was another matter. A succession of newspaper articles and expert studies concluded that the agency was slow to implement improvements and often responsive only after a crash. By blaming the agency, however, politicians and experts gave it credibility as an authority responsible for aviation safety.

The problems inherent since the beginning of aviation—including strife between regulators and airline representatives—were exacerbated during deregulation when the FAA had to use dwindling resources to oversee greater numbers of flights. Congress stripped the bureaucracy of control over airline routes and fares in 1978, and the number

of commercial airlines increased from 153 in 1978 to 526 in 1986.¹⁴ During that time, the ratio of safety inspectors to airlines declined from 3.9 to 1.3 in 1985. Faced with increased responsibility, the FAA delegated much of the responsibility for checks and maintenance to the airlines themselves.¹⁵ Airlines now cooperate to set many standards, and large airlines train mechanics and supervise safety at their smaller commuter partners.¹⁶ For example, the FAA lacks the expertise to comment on new airframe designs, with their thousands of independent parts, so “designated engineering representatives” certify new airplanes. Airplane manufacturers employ hundreds of engineers responsible for monitoring the safety of aircraft. Airlines also have their own safety rules, and the larger airlines have safety departments that conduct tests and help develop some private safety standards. In addition, FAA inspectors and engineers employed by airline manufacturers perform safety tests. Most airlines cooperate with the FAA because they find that regulation is in their interest: it reduces transaction costs by centralizing the production of safety standards so that each airline does not have to rely on an internal safety department *and* monitor other airlines to ensure that they are not spending less on safety and endangering the reputation of the entire industry.

Aviation, in short, is as complex a system as any. Changing technology, a deregulated airline market, and the FAA’s evolving structure add up to thousands of moving parts. Even with dramatic improvements in safety procedure, errors slip through.¹⁷ While the increasingly complex environment, by itself, increased risk, the

¹⁴ The number includes commuter airlines, many of which operate routes under the flag of a major carrier. Ralph Blumenthal, “The Other Side of Airline Deregulation,” *NYT*, 6/1/86. At the same time, federal budget pressures led to cuts in many domestic agencies. The FAA cut its inspector staff by 34 percent between 1978 and 1983.

¹⁵ Reginald Stuart, “GAO Questions Airline Safety Inspections *NYT*, 5/15/86, A23.

¹⁶ Matthew L. Wald, “Big Airlines to Monitor Safety at Little Ones,” *NYT*, 2/12/95.

¹⁷ Wise (1989) describes the FAA’s organizational challenge thusly: “a tightly-coupled, technical-human system such as the air traffic control system which leaves extremely small margins for error, operating within an organization that is

public came to expect risk-free flight, prompting outrage at air disasters. Just as the media's portrayal of disaster victims focused blame on FEMA, images of air disaster carnage focused blame on the FAA. Paradox: airline safety improved dramatically just as the federal government took on more of the blame for accidents.

Following a series of crashes in the 1970s, the House Special Subcommittee on Investigations criticized the FAA for avoiding leadership by putting off regulations. In the committee's eyes, the FAA should have insisted on installation of a cockpit warning device to avoid accidents in which the crew flies into a mountain or into terrain short of the runway.¹⁸ Note that GAO studies and congressional reports held the FAA—not the NTSB or the airlines themselves—responsible for airline safety and criticized the agency whenever it appeared to delay regulations. Often delays came not because the agency was “captured” by industry but because the technology was genuinely complicated and the agency lacked the autonomy to force development and implementation. For all of the negative publicity, the agency was doing a “bang-up job” as the *NYT* put it in 1981 because air safety statistics showed much safer skies.¹⁹ Aviation itself, however, was in disarray. Air traffic controllers continually threatened a messy strike, airports were overcrowded, and unions balked at airlines' plans to fly only two pilots instead of three on large planes.

Hijackings, crashes, and the firing of air traffic controllers during an illegal strike in 1981 led Congress to call for hearings on aviation and to establish a committee to

traditionally managed by top-down administrative methods, has difficulty adapting to a changed environment and is placed under serious stress under conditions of growing and shifting service demands with an influx of new and less experienced personnel.”

¹⁸ Richard Witkin, “House Unit Brands FAA As Sluggish on Air Safety,” *NYT*, 12/28/74.

¹⁹ Ernest Holsendolph, “Ground-level trouble for the FAA,” *NYT*, 6/21/81.

make recommendations for reform, whose options included abolishing the FAA.²⁰

However serious these problems, the FAA ultimately had very little control over them.

The strike would not be resolved until President Reagan fired striking controllers in 1981, and deregulation contributed to a slow erosion of union power across all industries.

The FAA faced such extraordinary public criticism because the public had less tolerance for risk in aviation than in other activities. Early in the 20th century the public accepted a certain number of accidents and deaths as the inevitable consequence of man's daring to fly despite not being born with wings; by the middle of the century the public clamored for the government to reduce risk to zero with a fervor not seen in other areas of safety regulation (Rhoads 1974). In 1967, for example, facing budget pressure from involvement in Vietnam, President Johnson asked agencies across the board to hold spending at the previous year's levels. The Senate Appropriations committee bucked Johnson and restored \$50 million to the FAA's air safety budget and another \$75 million in grants to airports (\$720 million total in today's dollars). By the 1980s, any crash was fair game for congressional grandstanding against an allegedly sclerotic bureaucracy. Minnesota Democrat James Oberstar, chairman of the House Public Works and Transportation Committee's panel on aviation accused the FAA of "safety by body count" since it appeared to act only when a large number of people died.²¹

Some of the criticism was on target because many of the agencies' standards were event-driven, enacted only after high profile disasters or near-disasters. In fire safety, for example, the FAA deferred to the judgment of airlines in installing fire extinguishers

²⁰ Air Safety Commission, *Final Report with Recommendations* (Washington: ASC, April 1988); Air Transport Association, *Federal Corporation Approach to the Management and Funding of the Air Traffic Control system* (Washington: ATA, September 1985); National Academy of Public Administration, *The Air Traffic Control System: Management by a Public Corporation* (Washington: NAPA, March 1986).

²¹ Douglas Frantz, "A 'Tombstone Mentality'?" *NYT*, 12/15/94, A1. Cheit (1990, 68) and Federal Aviation Administration, *Federal Aviation Regulation 121.309(c)*.

until the 1980s, requiring only that “the and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur in the compartment where the extinguisher is to be used” (Cheit 1990, 71-73). When an in-flight fire killed 23 people on an Air Canada jet over Ohio on June 2, 1983 the FAA began to favor mandates over suggestions. After the disaster and after months of investigation and evaluation, the FAA required the installation of smoke detectors in lavatories, a built in fire extinguisher in the towel dispenser in lavatories, and an increase in the number of fire extinguishers. Cobb and Primo (2003) go so far as to argue that FAA policy is purely event driven because it responds to major crashes reported in the media while neglecting more significant but less publicized structural risks. The authors overstate the case, however, and never substantially explore these more significant risks. They suggest that runway incursions might be among them, but the FAA has been addressing this problem for some time in internal reports not covered by the popular media. Some safety issues were regulated by a continuous and rational process even if others were event-driven.

At bottom, the FAA had the knowledge but not always the power to reduce risk further than it did. Regulators identified most of the accident risks before crashes occurred, but the agency lacked the autonomy to both engineer low-cost solutions and require speedy adoption. In other words, the agency had neither the strength to persuade private regulators to act on all of the potential risks *nor* the structure to carry-out traditional command-and-control regulation. The 1996 crash of ValuJet flight 592 in the Florida Everglades drew publicity to a long-established fact—the FAA did not closely supervise carriers that contracted out maintenance to outside companies. Investigations

found that poor and irregular maintenance of oxygen generator canisters by a company not familiar with the airline's operations contributed to the crash (Langewiesche 1998).

The public held the agency in relatively high regard even as experts criticized its organization and interest groups complained that their goals were not served. From the public's point of view, the agency was responsible for a much improved air safety. The agency's many wheels still squeaked, though. Controllers complained about the 'flow control' system planned and monitored by airlines and designed to pack airplanes into crowded airport schedules while airlines, usually stronger, complained about regulations restricting their autonomy (Langewiesche 1997).

The FAA gained a reputation for protecting safety, in part because the issue of airline safety was so salient to the public. Still, it lacked sufficient autonomy to enact major change or innovate without pressure from Congress and the president.²² Airlines, manufacturers, and regulators cooperated in developing and enforcing countless regulations. Inexpensive regulations were usually easy to secure after a long process of comment and review, but more expensive or complex ones were rarely adopted until after an accident when Congress forced change. Following an accident, tough regulations breeze through the usual veto points in Congress and the Office of Management and Budget because airline safety issue is a "motherhood issue" as an OMB staff member put it (Cheit 1990, 79). Returning to the issue of fire safety, regulators knew that smoke detectors, for instance, would reduce the risk of devastating fires but detectors were not required in lavatories until Congress took up the issue after two crashes were attributed to

²² Congress investigates airline accidents with great resolve. Steven Rhoads (1974) notes that "it would be difficult to overestimate the seriousness with which Congress views commercial air crashes."

cigarettes in the lavatory.²³ An even greater risk reduction—banning smoking on flights—was a byproduct of a larger anti-smoking movement and not an explicit safety improvement (Cheit 1990, 76).

Despite the FAA's weakness and the sometimes haphazard nature of regulation, the agency did learn to innovate for safety. The following pattern was typical: the agency would identify a problem and propose regulations or a procedure to determine appropriate regulation. Existing units within the FAA might ensure that the airlines met the new standard, or the agency might create a new entity to oversee the standard. In some cases, the agency would identify a problem only after an accident. The agency's management was, under pressure from watchdogs, committed to learning from experience.²⁴

Because it lacked autonomy, the agency relied on the president and Congress to set its agenda. The major measures of political attention show that safety was a much higher priority than security. Of its hearings on the FAA from 1985-2001, Congress held 14 on safety and three on security (and 28 on primarily organizational matters).²⁵ The GAO had a similar bias: between 1999 and 2003 it produced six reports safety regulation at the FAA and only three on security, each of which concerned computer security not hijackings. The media reflected the public's much greater concern for safety. The *NYT* published 231 articles on air safety and the FAA from 1967-2001 but only 28 on the

²³ The crashes were a 1973 in-flight fire on a Varig Airlines Boeing 707 that killed 124 people and a 1983 in-flight fire on an Air Canada DC-9 that killed 23.

²⁴ Rees (1994, 132-135) identifies four signs of a management's commitment to learning from experience: focused responsibility, an appreciation of risks, and sufficient authority and resources to analyze experience and implement change.

²⁵ House committee hearings, 1985-2001, accessed through the Library of Congress collection, Washington DC, 5/2005.

agency's work on security.²⁶ Major expert reports reflected the greater concern for safety, even in the 1990s when the risk of air travel was at its lowest point in history. The White House Commission on Aviation Safety and Security, led by Vice-President Al Gore, made its first goal to reduce fatal accidents by 80 percent.²⁷ Nevertheless, the commission recognized the danger of air terrorism and recommended a host of steps to address the threat, including increasing law enforcement involvement at airports and installing bag matching and passenger profiling systems. These programs were never fully implemented, though they were greatly expanded after 9-11.

In addition, the agency's structure reflected the greater emphasis on the problems of reducing safety risk. Since its creation the agency included a division responsible for securing agency assets against theft or vandalism.²⁸ The security office eventually absorbed responsibility for the much larger task of regulating security aboard airplanes and in airports with the introduction of baggage screening during the 1970s. In the mid 1980s, an associate administrator of civil aviation security responsible for both internal security and security regulation began reporting to the agency director. The agency's security function, however, was always smaller than its safety organizations and often administrators responsible for security would be saddled with safety tasks. Even in 2005, most security functions are placed under an administrator for security and hazardous materials described by one official as an "arbitrary combination...of cats and dogs."²⁹

²⁶ I located these articles using ProQuest historical newspapers and the search terms "faa safety" and "faa security," respectively. I then read through each article and eliminated those (few) that were not relevant.

²⁷ "White House Commission on Aviation Safety and Security," Washington DC, 2/12/97, accessed 3/20/05 at <<http://www.fas.org/irp/threat/212fin-1.html>>.

²⁸ Phone Interviews, Two long-serving officials in the FAA's Office of Security, Washington, DC, 7/13/05.

²⁹ Phone Interview, FAA Official, Washington, DC, 7/13/05. As of 2005 the office had 460 employees and a budget of just over \$50 million.

Regulating hazardous materials requires different skills and concerns than the agency's other security tasks.

The FAA's policy priorities reflect the larger organizational concern for safety. Even after the terrorist attacks of 2001, FAA administrator Jane Garvey noted to the House Committee on Transportation and Infrastructure that the agency's primary mission was still safety. "While system efficiencies are critical to meeting the needs of the 21st century," she said, "the bottom line is that if we are not making our skies safer, we are not doing our jobs."³⁰ Garvey outlined three areas that demanded improvement: efficiency, reducing the accident rate, and management. Congress created the Transportation Security Administration in 2001 to ensure airline security but the FAA was still responsible for enforcing some of the most important regulations, including Congress' demand in the wake of 9-11 that cockpit doors be reinforced. The agency's history and organization, long used to reducing the risk of accidents, was not structured to address new security problems unless Congress and the president demanded action after a disaster. Politicians, meanwhile, were sensitive to the public's greater anticipation of safety risks. Past experience provided a model for how to deal with air accidents but there was no such formula for responding to, let alone anticipating, terrorism. Four years after 9-11 experts issued reports about the threat of shoulder fired missiles and plastic explosives but the FAA lacked a procedure to identify and address these and other security threats.

³⁰ Jane F. Garvey, "Statement on Ways to Improve FAA's Organizational Structure," Washington DC. US House. Committee on Transportation and Infrastructure, 7/16/02.

Regulating for security

September 11 was not the first time that air security was atop the national agenda. In 1968, 18 hijackers successfully diverted planes to Cuba (Minor 1975). The following year there were 82 attempted hijackings worldwide, more than twice the total number of attempts between 1947 and 1967; hijacking continued into the 1970s, with 29 attempts recorded from 1968-72 (Holden 1986, 885).³¹ Since terrorism had been on the FAA's agenda for some time, why did the agency's safety regulation not achieve the same rate of improvement as its security regulation? Hijackings and terrorism may seem more unpredictable than air accidents but in reality both are low probability events whose frequency can be reduced though not eliminated by the right measures. Sealing airplane doors so that they could not be opened during flight, for instance, put an end to mid-air "holdups" in which a thief would steal passengers' money and parachute to safety.³² But the FAA's organization never privileged security, and the public's concerns, reflected in the media and in congressional testimony, focused squarely on safety.

Hijackings tapered off, but never disappeared, after the 1973 institutionalization of screening for carry on baggage. Without the ability to easily bring guns aboard, would-be hijackers required far more resources and foresight to be successful than before. Other innovations, however, were episodic and never clearly effective.³³ For example, the sky marshal program, begun in 1970, placed armed officers on some flights to deter hijackings. Funding for the program never really reached the intended level, however.

³¹ A rash of airline hijackings in the 1960s and 70s prompted a 1972 worldwide strike of airline pilots called for by the International Federation of Airline Pilots Associations. The strike drew a better than 50 percent response by pilots outside the US. (Action inside the US was forbidden by a Supreme Court temporary restraining order). More information on hijackings can be found at <http://www.nationmaster.com/encyclopedia/Aircraft-hijacking> accessed

³² There were few such hijackings but they garnered substantial publicity. The most famous of these air bandits was known as "D.B. Cooper" though his true name remains a mystery.

³³ More information on aviation security innovations can be found at: <http://www.aic.gov.au/publications/crimprev/transport/air-t.html>, accessed 4/05/05.

Aside from requiring screening of carry on luggage, the FAA's security regulation did not achieve as great a reduction in risk as did safety regulation. Over time, the FAA developed programs and expertise in the various aspects of air safety: fire-proofing, airframe stability, runway safety, air traffic control, piloting and evasive maneuvers. Even if the agency did not possess expertise itself, it monitored the private entities that, for example, certified airframe construction. Oversight of security was much more haphazard. Experts continually found the FAA's security policies and organizations lacking, but attempts to innovate for security stalled. Sometimes Congress and the president delayed the agency's recommendations, and at other times regulators ran up against a morass of procedure. Major GAO reports in 1993 and 1996 noted the poor quality of the FAA's security procedures. The agency's security staff was shuffled around the organization chart during the 1980s and 90s and was always much smaller than the safety units.³⁴ Security administrators were often former military and national security officials who lacked experience in aviation.³⁵

The recent history of attempts to regulate for security in the way of a crisis shows that the FAA lacked sufficient resources to follow through and require tough new regulations. Here resources refers to a profession (for security), administrative politician, and organizing concept. Renewed attention to air security began in 1988, when Pan Am Flight 103 blew up over Lockerbie, Scotland, killing all 270 people on board. The following year, a bomb exploded in a French airliner over Africa, killing 171 people and two months later a Columbian airliner was demolished by a bomb after takeoff from

³⁴ Douglas Frantz, "A 'Tombstone Mentality?'" *New York Times* 12/15/94, A1.

³⁵ No aviation security culture, composed of university programs, national conferences, and offices at the state and local level, exists on a scale similar to FEMA's natural disaster culture or even a more specific realm such as the earthquake culture.

Bogotá. In 1990, President Bush created a commission on airline security whose recommendations were included in The 1990 Aviation Security Improvement Act. The law directed the FAA to develop machines to detect explosives in airline luggage but it did not require airlines to *use* the devices. Even though the law lacked the teeth to impose substantial policy change it added to the FAA's security mandate. Congress instructed the agency to develop equipment and policies to counter terrorist threats. By 1992, when the agency found that explosives detection was the most immediate threat, the FAA's aviation security lab was born. Engineers worked alongside the only American manufacturer of explosive detection systems to develop a machine that could peer inside luggage to detect explosives. The government certified the machine in 1995, but no US airline bought the equipment.

The next year, TWA Flight 800 exploded off the coast of New York. Investigators later discovered that the crash was due to a mechanical problem but the initial suspicion was terrorism. In the wake of the crash the FAA developed a plan to install explosives screening devices at every US airport within 20 years. The FAA could not compel airports and airlines to install the devices and improve baggage screening but it could provide a plan in hopes that either airlines would adopt it on their own or Congress would mandate adoption. After September 11, Congress moved up the deadline and required explosive detection systems to be used in all US commercial airports by the end of 2002.

The story of explosives screening devices exemplifies event-driven politics. More specifically, the venue for an agency's reputation, whether in a particular group of experts, politicians, or the general public, shapes the direction of policy change. Events provide the immediate impetus for substantial change; in the face of a disaster the

regional and business interests opposing new standards are weakened. The FAA, in particular, gained authority by being associated with a reputation for safety and, to a lesser extent, security. The agency was not rewarded for following through with its security recommendations, however, and most lay fallow until after 2001.

For instance, the FAA recognized that the lack of devices to screen checked luggage made airliners vulnerable, but efforts to develop and install them were started and restarted only after air disasters and were stopped or postponed shortly after the media frenzy died down. The creation of an air security lab institutionalized what was previously sporadic concern about new technology but the lab was never well integrated into the FAA's overall structure. Neither airlines nor Congress heeded its recommendations until one of the most catastrophic disasters in American history. In other cases, innovation stalled because of bureaucratic inertia. The airlines did not oppose the creation of a passenger screening system during the 1990s but by 2001, four years after the FAA initially announced it would develop such a system, the guidelines were still in development.³⁶ The FAA failed to mandate even the least expensive and most efficient changes to enhance security, such as a terrorism database or passenger screening system.³⁷

To be sure, experts warned of aviation security vulnerabilities, albeit not to the degree that they emphasized safety dangers. Nevertheless, the FAA had knowledge of problems with security. From 1993 to 2000, the GAO issued 11 reports identifying airline and airport security weaknesses. Problems were repeatedly ignored or glossed over, the

³⁶ Jesse Beauchamp, *Countering Airline Terrorism*, Caltech News 35:2/3 2001. In an interview, Beauchamp recalls lessons from his service on two federal commissions charged with investigating airline safety and security.

³⁷ *Recommendations and Budget Request* from the White House Commission on Aviation, Security, and Safety (1996); "Pilots grade U.S. aviation security an 'F'," Reuters, 3/10/05, accessed at <<http://www.msnbc.msn.com/id/7148187/>>

reports concluded. The media amplified the GAO's conclusions, which prompted congressional grandstanding but little meaningful reform. The list of vulnerabilities read like an instruction manual for the September 11 hijackers.³⁸

- “Slow progress in addressing long-standing screener problems.”
- “Vulnerabilities still exist in the aviation security system.”
- “Additional controls needed to address weaknesses in carriage of weapons regulation.”
- “Immediate action needed to improve security.”

Meanwhile, the Department of Transportation inspector general lambasted the FAA for turning a deaf ear to questionable inspection practices.³⁹ In a *Time* article, she criticized the agency's “sloppy inspections of planes, perfunctory review of pilots, lax oversight of airline procedures, disregard for bogus airplane parts, sievelike security at airports, [and] antiquated air-traffic-control systems.” The agency's safety procedures, however, were more effective than its security inspections because there were so many more well-institutionalized safety routines. Though safety checks were often weak or perfunctory, the agency's 3,000 inspectors performed a great number, and even more were performed by the airlines and airplane manufacturers. From 1988 to 1990, 833,000 FAA inspections resulted in 4,000 safety violations – a small percentage but a substantial number. The agency performed redundant, layered, and frequent safety inspections while its security procedures were far fewer and less well-developed. The GAO directed particularly harsh criticism at the agency's toothless airport security oversight. FAA inspectors, ostensibly testing airport baggage screeners, would carry packages in an

³⁸ “Slow Progress in Addressing Long-Standing Screener Performance Problems,” GAO, 3/16/00. “Additional Controls Needed to Address Weaknesses in Carriage of Weapons Regulations,” GAO, 9/29/00. “Vulnerabilities Still Exist in the Aviation Security System,” GAO, 4/6/00. “Aviation Security: Immediate Action Needed to Improve Security,” GAO 8/1/96. Shane Harris recounts many of these same criticisms in his account of the event-driven nature of reform in the FAA in Harris, “It Takes a Tragedy,” *Government Executive* 3/15/03.

³⁹ Mary Schiavo, “Flying into Trouble,” *Time* 149:13, 3/31/97.

obviously suspicious way, making it more likely that they would be caught. The GAO found that the agency tried to “give the air carrier every opportunity to pass.”⁴⁰ The FAA alone was not responsible for the attacks of 9-11, but it missed many chances to enact new regulations or enforce existing ones that might have stalled the hijackers. For instance, the agency might have mandated strengthened cockpit doors, more strategic use of air marshals, passenger screening, and it might have rescinded its rule allowing small knives aboard aircraft. A unit within the FAA, the Civil Aviation Security intelligence office, produced an August 1999 report warning of the potential for a “suicide hijacking operation,” and that the North American Aerospace Defense Command was preparing to counter the threat.⁴¹ The FAA, however, never implemented its own countermeasures.

The third major period in US air terrorism follows 9-11. In November 2001, Congress enacted the (second) Aviation Security Improvement Act to require the federal government to screen all checked luggage for explosives by the end of 2002. The Act also transferred some of the power for security regulation—such as oversight of baggage screeners—to the newly created TSA. The FAA, however, retained much of the responsibility for airline security regulation. The crisis atmosphere following 9-11 broke down the usual partisan and ideological barriers in Congress and led to unusually ambitious legislation. Even so, the baggage screening provisions were not fully implemented as of 2004. Some airports still used tracer wands, bomb sniffing dogs, and bag matching rather than the machines. (The TSA won’t reveal which airports use which techniques. Security experts say these methods are less reliable than the machines).

⁴⁰ Pam Belluck, “Federal Audit Faults FAA on Tests of Airport Security,” NYT, 9/14/96, A1.

⁴¹ The 9-11 Commission Report, (Washington DC: GPO, 2004), 345.

Though no US civilian aircraft have been bombed or hijacked since September 2001, terrorists have attempted to take down airliners.⁴² The threat remains.

Conclusion

The FAA, like most organizations, fell short of perfect oversight in airline safety and security. This chapter details the agency's regulation in both areas and asks why airline safety greatly improved at a steady rate while airline security did not. Equipment malfunction and pilot and controller error remained a danger throughout the history of air travel – perhaps even more so as technology became more complex.⁴³ Similarly, terrorism and hijackings remained a threat, though one that changed according to the politics and strategies of terrorist groups. Both threats were present and both were anticipated by experts. The FAA was better able to institutionalize procedures to reduce the risk of equipment malfunction and human error than it was to institutionalize procedures to reduce security risks because of the nature of institutional politics in aviation.

Specifically, aviation politics are largely event-driven. Disasters reduced the power of groups that would normally block reforms that might disadvantage their interests—often referred to as “veto players” in the literature.⁴⁴ The FAA had a reason to seek policy change to institutionalize procedures for safety inspection; its best reputation was as a defender of public safety. Among experts, the agency suffered criticism for slow and weak implementation. The aviation industry at times regarded the agency as a useful

⁴² In December 2001, Richard Reid boarded an American Airlines plane from Paris to Miami with explosives attached to his shoes. And one year later, terrorists fired shoulder-launched missiles at an Israeli charter jet taking off from Mombassa, Kenya.

⁴³ Perrow (1984) claims that efforts to reduce risk can add to risk in complex systems.

⁴⁴ Tsebelis (2002) is perhaps the most cited work that employs the term.

means of reducing transaction costs and at other time as a morass of red tape. The agency's best hope for gaining resources, influence, and autonomy was to appeal to the flying public as a guardian of its safety. Just as the Environmental Protection Agency improved its status and resources by recasting itself as a "public health" agency, the FAA gained benefits from its reputation as an aviation safety agency, since most Americans fly or know someone who flies (Landy, Roberts, and Thomas 1994, 42).

The event and reputation-driven character of aviation policy tilted the agency's focus in favor of safety. Aviation safety regulation possessed three things that security regulation did not: redundant and overlapping procedures, a culture of experts in and outside of the agency specializing in safety, and an extraordinary amount of public concern for safe skies—reflected in the actions of Congress and the president. The latter is particularly important because the FAA lacked sufficient autonomy to learn from security weaknesses and failures. The agency had neither the legal structure nor the connection to stakeholders among the public to enforce its independent preferences without the explicit support of the president or Congress. As the agency's attempt to require explosives screening of all checked baggage shows, the FAA could suggest security rules but they would be neutered in Congress as public concern shifted to the risk of accidents and human error. For most of its history, the FAA never institutionalized responsibility for security.

Agencies learn in two primarily ways: from information and from the process of problem-solving.⁴⁵ Thomas Birkland (2004) argues that the FAA did learn how to innovate for security, but he focuses only on the latter type of learning which seemed

⁴⁵ Essential to this process is management commitment to learning from experience and then establishing a routine—a key step lacking in the case of FAA security regulation (at least compared to the various safety routines) (Rees, 1994, 124).

only to occur following the attacks of 9-11.⁴⁶ The agency possessed structures that assimilated information about safety risks and organized it into thousands of inspections each year. Far fewer structures existed to assimilate information about security risk, in part because political obstacles blocked implementation of explosives and passenger screening systems. Had the FAA possessed more autonomy, it might have been able to learn from information about security risks by implementing recommendations in expert studies and reports, even if politicians were ambivalent, divided, or initially opposed. As it happened, the agency possessed a reputation for safety—a concept that resonated among the public like no other. It was rewarded with funding, authority, and acclaim when it promised to ensure safety and it risked all of these when it deviated from safety.

Aviation regulation, of course, was not the sole provenance of government. The characteristics of the new regulatory state—overlapping regulatory structures and substantial private self-regulation—exist alongside a relatively weak FAA. A stronger agency would not necessarily have performed any better; federal regulation alone may be too much of a blunderbuss in complex and rapidly changing fields like aviation. Inspectors found weaknesses in the agency's safety checks, but often these were covered by redundant inspections by airlines and airline manufacturers in an increasingly thick but flexible web of regulation that caught most safety risks before accidents occurred. A similar system was never woven for airline security, and federal agencies seemed too weak to fill the void. Without sufficient autonomy and a strong culture of security regulation outside of government, the FAA could never be expected to be an innovator against intentional acts of air violence. The new regulatory state, by spreading

⁴⁶ To be fair, Birkland (2004) claims that earlier air terrorism prepared the FAA for the attacks of 2001, and it responded with a list of suggestions for improving safety that had already been developed. This, however, could also be interpreted as the agency's failure to learn after previous disasters.

responsibility among various levels of institutions, places the burden on politicians to issue major changes in the direction of government's focus. Politicians may be at once the most logical locus for directing government's coercive power toward new ends but also the least likely source for such change.

Figure 1.
Percent of Respondents Rating Agency Performance Positively

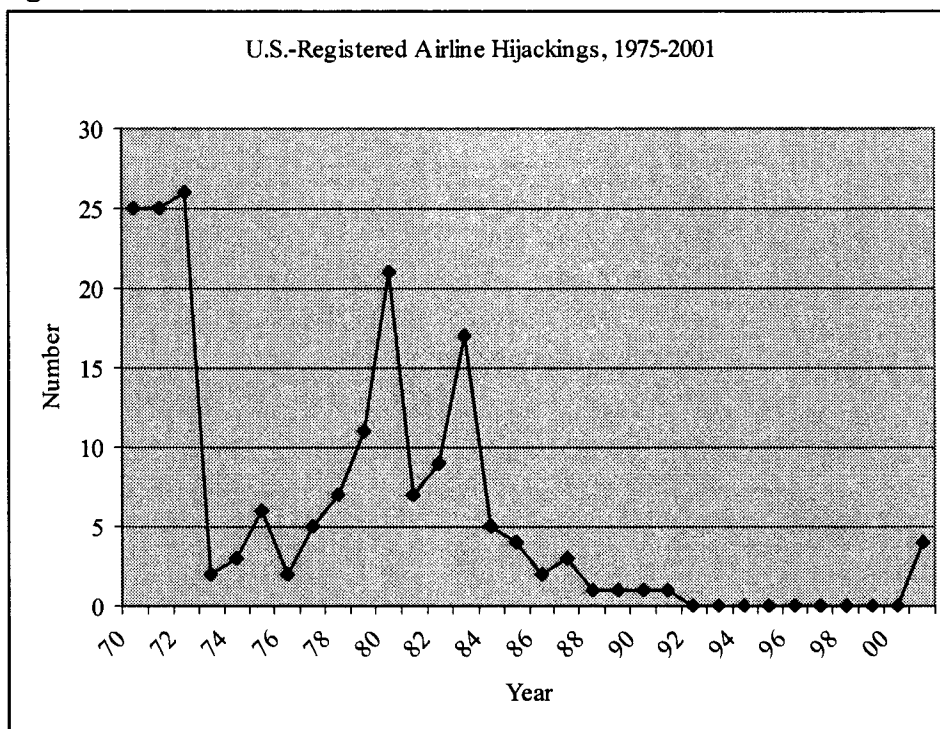
| | 2000 | 2001 | 2003 | 2004 |
|-----|------|------|------|------|
| CIA | n/a | 57 | 57 | 53 |
| CDC | 78 | 78 | 90 | 84 |
| NIH | 63 | 77 | 80 | 71 |
| FAA | 58 | 54 | 76 | 77 |
| FBI | n/a | 68 | 69 | 64 |
| FDA | 62 | 67 | 68 | 65 |
| SEC | 53 | 71 | 57 | 62 |
| DHS | n/a | n/a | 56 | 59 |
| EPA | 56 | 65 | 55 | 53 |
| IRS | 44 | 63 | 51 | 54 |

Source: Harris Interactive Poll of 2,114 adults, 2000-04. "Positive" means "excellent" or "pretty good" rating.

Figure 2.

| Period | Odds of being killed on a US domestic flight |
|---------|--|
| 1957-61 | 1 in 1 million |
| 1962-66 | 1 in 1.1 million |
| 1967-71 | 1 in 2.1 million |
| 1972-76 | 1 in 2.6 million |
| 1977-81 | 1 in 11.0 million |
| 1982-86 | 1 in 10.2 million |

Source: Barnett and Higgins (1989).

Figure 3.

Source, TSA, 2000 Crime Acts Report

8

Conclusion: A resource-based understanding of autonomy and adaptability

The crisis of 9-11 is more than one of the most daring terrorist operations in history; it is a watershed that will shape how governments think about security in the coming decades. As with Pearl Harbor, members of an entire generation divide their lives according to the periods before and after the event. The chasm is especially palpable for federal agencies that, before the attacks, defined national security largely as something that occurred overseas through the projection of military force. After September 11, agencies had to come to grips with what national security might mean for defending the nation against a surprise attack at home in addition to other missions they might have had before the fall of the twin towers. The intelligence agencies, for example, were reluctant to single out vaguely suspicious green-card carrying Muslims in the United States before 9-11; this respect shown to the liberties of non-citizens has been re-interpreted as a pre-9-11 mentality.¹ The post-9-11 approach, in contrast, calls for vigilance and intervention, because even though the probability that any single individual might commit a terrorist act remains low, the perceived cost has become unacceptably high. After the terrorist attacks, security becomes part of the mission of agencies included in the new Department of Homeland Security and even of many agencies not included.

¹ In the summer of 2000, a military intelligence unit identified four of the September 11 hijackers as likely members of an Al Qaeda cell operating within the United States and recommended that the information be shared with the FBI. The recommendation was rejected, at least in part because the future hijackers were in the United States on valid entry visas. Military officers were reportedly uneasy about sharing information with law enforcement, especially if the individuals under suspicion had not broken any laws. Douglas Jehl, "Four in 9/11 Plot Are Called Tied to Qaeda in '00," *New York Times*, 8/9/05, A1.

How well have the government, and federal agencies in particular, adapted to the new environment in which the threat of domestic terrorism is far more salient? On the whole, federal agencies responded surprisingly well, and most incorporated sensible measures to combat terrorism while not completely abandoning crucial older missions. Some agencies, such as the immigration bureaucracies, remain inefficient, while others, the emergency management agencies in particular, are in danger of overextending themselves and taking on more tasks than they can handle. Yet in both of these cases the agencies faced similar problems before September 11, and the reorganization that followed made either minor improvements or, at least, did not harm performance. In some instances, homeland security reorganization greatly improved organizational structures and policy. The intelligence, immigration, and aviation agencies made changes long recommended by experts and long frustrated by bureaucratic inertia and political wrangling.

The dominant strains of the scholarly literature on bureaucracy, not to mention conventional wisdom, were not so sanguine. Critics predicted that hierarchical government bureaucracies were too much of a blunderbuss to combat fluid terrorist networks. The same predictions about government agencies are made in all periods: they are prone to path dependence, inertia, and an inability to handle complexity. The literature on bureaucracy is a literature of perversity that misses no opportunity to explain where federal agencies might go wrong but seldom expects that agencies might adapt. Compared to the expectations of the scholarly literature, homeland security agencies have adapted well to terrorist and other threats. The core homeland security agencies were created in the wake of World War II and had to innovate and adapt to new circumstances

throughout their history. While far from perfect, many such agencies adapted to new threats even before elected politicians anticipated them. Those agencies that were able to develop the appropriate mix of resources—a professional culture, an organizing concept, and administrative politicians—were able to innovate to meet new challenges. Other agencies adapted only after a crisis, and still others lacking appropriate resources never adapted. In many cases, agencies innovate, or develop new solutions to problems, by exercising autonomy from politicians. Some agencies begin with presumptive autonomy because of the nature of their tasks, while others develop a reputation for effectively solving a particular kind of problem.

The conclusion to this project first summarizes how the scholarly literature expects bureaucracies to behave, especially after 9-11. Studies of reorganization gives good reasons to expect large cabinet-level departments to perform poorly. The literature, however, neglects the capabilities of core federal agencies below the department level, which can adapt to solve new problems even as they are frustrated by some of the difficulties described in the literature. The CIA, FBI, and, for a time, FEMA exercised autonomy to refashion themselves to balance counterterrorism with other missions. Meanwhile, the FAA made great strides in safety though not security regulation. The INS, lacking autonomy and basic resources, never adapted to solve any problem particularly well. What does the work in developing the kind of autonomy—whether through reputation or the nature of an agency's tasks—that leads to adaptability? Resources, including a profession and an adaptable organizing concept, help an agency to craft its own perspective and develop the authority to enact its preferences. Finally, the conclusion asks what lessons the history of bureaucratic autonomy in the agencies studied

here holds for reformers working in the post 9-11 homeland security environment. I conclude that if homeland security is to succeed as a department and as a concept, it must be about more than terrorism and encompass disaster preparedness and response more broadly. Organizationally, the DHS and the new intelligence structures must empower the core federal agencies below them, granting sufficient autonomy to agencies with the proper resources to address public concerns.

A literature of perversity

After 9-11, scholars and pundits lamented that federal agencies could not possibly succeed at complex tasks such as counterterrorism, following a long line of studies that invoke “bounded rationality” to temper expectations about the possibilities of administrative governance.² Rick Valelly writes that “We are all, collectively, beginning to understand that our government and its parts [including the CIA, FBI, INS, and FAA] ... were for a long time focused on what the bounded-rationality literature might call ‘an exceptionally ill-structured task.’ In this case, it was the prevention of a major terrorist attack on American soil.”³ James Q. Wilson offers a similar perspective, explaining that the government failed to prevent the attacks because the task of defending against all terrorist attacks was too complex and therefore inherently unachievable.⁴ Wilson and Valelly suggest that too many agencies were involved in too many disparate tasks. As a result, if a clue to the terrorists’ intentions were to appear, there would be no adequate routine to pick up the signal and transmit it to administrators or policymakers who would

² The foundational text of the bounded rationality tradition, first published in 1946 and now in its 4th edition, is Simon (1997).

³ Rick Valelly, “How Political Scientists Can Help Fight the War on Terrorism,” *Chronicle of Higher Education*, 7/19/02.

⁴ James Q. Wilson. “The Enemy Will Always Surprise Us,” *Wall Street Journal*, 6/2/02.

take appropriate action. This explanation for the failure to prevent terrorism follows the argument of Roberta Wohlsetter's *Pearl Harbor* (1962), which claims that though there were intimations of a surprise attack by the Japanese, American intelligence was unable to separate the "signals" from the "noise." The classic statement of the science of complexity is Charles Perrow's (1984) *Normal Accidents*. Perrow claims that attempts to solve problems in complex systems might actually increase the probability of a disaster by adding to the number of complex routines which, on occasion, are bound to have some rate of failure.⁵

No doubt, increasing complexity and specialization present a formidable challenge for political life. As modern societies become more complex, they are subject to new forms of stress.⁶ In the case of 9-11, however, the task of counterterrorism poses no more difficulty than other complex tasks such as nuclear power plant safety or aviation safety, both of which made remarkable improvements in recent years.⁷ Complex tasks pose three major kinds of difficulties: sustaining attention to the problem, creating sufficient resources, and improving communication across specialties. The efforts collectively known as homeland security reorganization attempted all three with some though not complete success. Before the homeland security crisis, very few divisions within agencies were focused on "the prevention of a major terrorist attack on American soil" whereas after the attacks many agencies incorporated counterterrorism into their

⁵ The research tradition generally known as "bounded rationality" has produced some remarkable insights because, at times, bureaucracies do produce perverse results. Vaughan (1996) shows how experts can become accustomed to seeing alarming information and incorporating it into a routine so that they do not accurately assess the impact of potential negative outcomes. Similarly, Eden (2004) shows how the closed loops of professional networks led nuclear war planners to systematically neglect evidence about the extent of fire damage during a blast.

⁶ Zolo (1992) claims that complexity threatens the values traditionally associated with liberal democracy. In his view, the "information revolution" leads to a proliferation in the means of communication people take on more specialized tasks and lifestyles and are less able to reach understanding, consensus and true communication.

⁷ Improvements in airline safety are chronicled in chapter 7. For an account of nuclear safety, accomplished largely through private self-regulation, see Rees (1994).

missions. The crisis heightened the bureaucracy's awareness of terrorism, which was only a minor concern before the attacks. The other two kinds of problems, creating resources and improving communication, require bureaucracies to develop the capacity to solve new problems. Despite the glum predictions of the literature on bureaucracy, some homeland security agencies managed to adapt.

Homeland security agencies in the DHS

For all of the improvements made by agencies in the wake of 9-11, few were due to the creation of a new cabinet level department. As of 2005, the value of the changes wrought by creating a new department—initially opposed by the president—was still in dispute. The DHS's management structure was still weak two years after it opened its doors, and what homeland security meant, whether counterterrorism or some broader notion of security against disaster, remained unclear. Most of the adaptability in homeland security occurred in core federal agencies just below department status—the aviation, disaster management, immigration, and intelligence bureaucracies. At their most successful, these agencies have enough coherence to be able to accomplish several related goals and enough fluidity to address new problems. The FAA's security innovations and FEMA's effective response to the Oklahoma City bombings and the attacks of 9-11 are two examples. For all its media and political attention, however, the larger DHS contributed very little to the agencies caught in its web.

In questioning the value of large-scale departmental reorganizations, the scholarly literature provides reasons to expect the Department of Homeland Security to be weak and ineffective, if not destructive, at least in its early years. The same crisis atmosphere

that can loosen entrenched interests and routines can break down processes of deliberation. Quick but poorly planned action can be worse than no action at all, especially when it comes to reorganization. For instance Congress created the Department of Education in record time—the statute required that it be up and running within six months—but it left little opportunity for consultation with agency personnel. In its haste, Congress installed an unworkable organizational structure that satisfied lobbyists and diverse groups interested in education but failed to implement a coherent vision for education.⁸

The size of large departments makes creating successful ones difficult. The 1947 National Security Act, which created the CIA, Joint Chiefs of Staff, and National Security Council as well as strengthening the Department of Defense, required the consent of so many politicians, bureaucrats, and interests that it failed to achieve its original goal of coordination among the armed services (Zegart 1999). Compromise doomed the agencies and departments reorganized by the act, and it was not until the Goldwater-Nichols Defense Reorganization Act of 1986 that the armed services improved cooperation and coordination.

A successful reorganization requires not only restructuring agencies—a difficult task in itself—but restructuring oversight of those agencies in Congress and the White House. The Federal Emergency Management Agency was crippled from its creation when it reported to twenty different committees. It was mired in “multiple conflicting agendas” until its reorganization in 1993 when, among other things, committee oversight was streamlined. As of 2005, Congress had not reorganized its committee structure to

⁸ The chief success of the creation of the Department of Education was to increase the symbolic status of education and the visibility of its spokesmen and, ultimately, perhaps, to lay the groundwork for the expansion of federal oversight over education (Hufstедler 1990, 64).

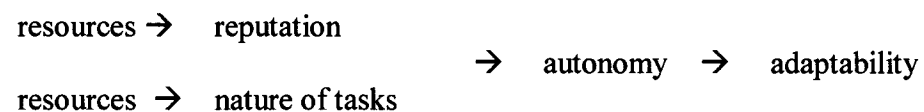
reflect the priorities of the DHS, and so many homeland security agencies were torn between several congressional committees and, thus, faced inevitable red tape and confusion (Balogh 2002, Wise 2002). Despite the grim forecast for large departments, reorganization is one path to building the capacity for reputation, autonomy and, ultimately, adaptability. Most cabinet-level departments are simply too massive to be useful as a single entity, though, and the most innovative steps are taken at the level just below the department, in core federal agencies of the kind studied here.

I depart from three major accounts of American bureaucracy by stressing how agencies can adapt to new problems. Zegart (1999) shows how compromise frustrated attempts to reorganize to prosecute the Cold War. In contrast, this study shows how reorganization can be successful in core federal agencies below the department level. Each of the agencies studied here, even the lackluster ones, developed some new organizations and policies to address new problems, including terrorism. The most successful innovations were examples—often short-lived—of bureaucratic autonomy. Wilson (1989) emphasizes that agencies must have a single clear mission in order to accomplish goals. As I explain below, a single mission is not as important as an adaptable organizing concept with enough coherence to bind multifarious tasks but enough flexibility to leave room for unforeseen problems. Finally, Carpenter (2001) shows how reputation might lead to autonomy and help to create influential agencies. On one hand, this dissertation updates Carpenter's model to show how bureaucratic autonomy might be possible in a politicized and increasingly thick administrative environment. On the other hand, this dissertation departs from Carpenter by emphasizing not just autonomy but adaptability and change. Each empirical chapter presented here shows how

reorganizations either contributed to or constrained autonomy. The dissertation also, contra Carpenter, offers another source for autonomy in the nature of an agency's tasks. Task-based autonomy found in the intelligence and security agencies has proven more stable than reputation-based autonomy. In assessing the sources of innovation in agencies, scholars have highlighted the contributions of different levels of bureaucrats. Carpenter highlights the role of mid-level bureaucrats and other studies concentrate on either agency leaders or front-line civil servants. In contrast, this dissertation focuses on the value of the profession to which members at several levels of an agency may belong. The level-spanning character of a profession helps to give an agency coherence and to coordinate the tasks of front line workers with the goals of managers and directors.

A profession is one of three basic resources that can help to build a reputation and promote adaptability. Resources provide the knowledge, skills and capacity to act. The term "autonomy" describes the development of sufficient capacity to induce politicians to defer to or at least ignore an agency's assertion of its own preferences.

Figure 1. Model of agency adaptability



Professions, concepts, and administrative politicians

Homeland security agencies that successfully adapted to new challenges shared common strengths. All had assembled sufficient resources to adapt. Resources may be tangible things including the buildings, equipment, and space owned by a particular

agency.⁹ Federal agencies, like all firms, also have human resources. These are the knowledge, skills and capacities of people. A resource is crucial to adaptability because it is something that can be stored up for use at a future time. A resource may sit dormant while retaining the potential for productive capacity. Reformers must both assemble appropriate resources and combine them in appropriate ways. Strictly speaking, resources do not contribute to adaptation directly; rather, the services these resources render help an agency adapt to new challenges.

Insufficient tangible assets can impede an agency's performance, but human or intellectual resources are fundamental because they guide the acquisition of tangible assets. The comparison of homeland security agencies shows that three kinds of human or intellectual resources are particularly important for innovation in federal agencies: a professional culture, an adaptable organizing concept, and an administrative politician. Where agencies had these resources, they were successful at meeting new challenges, including counterterrorism. Where agencies lacked these, they were often mired in stasis and acquired a poor reputation.

Few agencies have the resources to innovate on their own. A profession, however, provides the tools to identify and address new problems (Balogh 1991, Brint 1994, Sharma 1997). Training centers and university programs built around a profession school civil servants in the work of an agency. The shared knowledge provided by such programs, perhaps even more than the technical skills, helps define civil servants as part of a larger end. A mature profession provides a shared vocabulary that extends beyond the agency's employees to state and local bureaus as well as to the private sector. A profession also provides many of the tangible resources such as meeting places that make

⁹ Penrose (1959, 24-25) provides a classic statement of the resource-based theory of the firm.

possible the development of intellectual resources. Chief among the latter is the ability to provide friendly criticism: the members of a profession associated with an agency are close enough to the agency to be sympathetic to its mission yet distant enough to be able to provide tough criticism should it need reform. The combination of training, a shared vocabulary, and sympathetic criticism at crucial moments helps to shape an agency's work in a changing environment.

The linchpin of the process of social learning is the development of an adaptable organizing concept that unites diverse missions under a single heading. One truism in the study of bureaucracy, often attributed to Wilson (1989), is that a successful agency must have a single clear mission encompassing a few related core tasks. The experience of homeland security agencies, however, proves this insight to be wrong or at least incomplete. A single clear mission is not as important as organizing goals and a structure of missions that are adaptable. A mission refers to a discrete aim from which a host of more specific tasks flow. An adaptable organizing concept, however, defines a universe of possible aims, some of which can be prioritized over others as needed. The FAA successfully brings together a host of distinct specialties and routines not under a single mission but under the rubric of "safety." Similarly, FEMA's all hazards mission is less a single mission and more a concept that unifies a set of tasks and provides a decision rule for the agency, indeed the profession, in allocating resources.¹⁰ The all hazards concept unified previously divided cultures and at the same time deemphasized highly specialized functions and especially top secret national security tasks that the agency was ill-equipped to handle. An organizing concept allows an agency to juggle several related

¹⁰ The author credits Daniel Carpenter with clarifying this point.

missions, giving priority to the one most urgent at a particular time, while still providing predictability about an agency's responsibilities over the long term.

While organizational learning is a social process, great strides require the extraordinary will and inventiveness of individuals. This account takes seriously the routines and collective behavior that characterize organizations, but it differs from traditional organization theory in that it recognizes individual agency as important. What individuals do can have enormous consequences. In the case of FEMA, the actions of an enterprising director, James Lee Witt, helped to professionalize the agency, install the all hazards organizing concept, and build a capacity to address disasters. Witt was an administrative politician who enacted his priorities by negotiating with the political realities of the day and by making clear that by granting his agency autonomy politicians would improve their chances at reelection. The term administrative politician rather than "bureaucratic entrepreneur" may be best suited to contemporary reformers who operate in a politicized bureaucracy.¹¹

The genius of administrative politicians lies in their ability to connect the interests of elected officials with the goals of the agency and the intellectual and institutional resources provided by social groups such as citizen coalitions, formal interest groups, and professions. To apply a market metaphor, the administrative politician views the political and not just the bureaucratic "market" as the arena in which he or she operates in order to leverage support for an agency. Even in agencies without interest groups in the traditional sense, such as the CIA and FBI, managers sought autonomy by appealing to pivotal groups in Congress and, when necessary, by "going public." The politicking ultimately

¹¹ The "administrative politician" is related to the term "bureaucratic entrepreneur" (Carpenter 2001, Mintrom 1997, 2000). The former emphasizes the political aspects of the manager.

serves bureaucratic ends, at least in the best cases, by institutionalizing a new organizing concept and set of missions.

Administrative politicians tie together a diverse set of groups—professions, universities, associations, as well as elected officials—that are often part of what is referred to as comprehensive reform.¹² Comprehensive reform refers to change that does more than simply “move the boxes around.” Lasting reform alters incentives across agencies, across hierarchies, across time, and outside the agency. To achieve comprehensive reform by including elements outside an agency requires, paradoxically, cooperation from inside the agency. National security agencies, in particular, are difficult to reorganize from the outside (Rosen 1991). The administrative politician and his or her associates can provide the focal point for comprehensive reform.

How agencies strive for autonomy

Each of these three resources contributes to adaptability by giving an agency a combination of stability and flexibility. Specifically, an adaptable concept organizes an agency’s diverse missions while the work of an administrative politician and the activities of a profession—training, conferences, and publications—establish routines and procedures by which an agency can refine its missions and tasks. The most successful innovator in the study, FEMA between 1993 and 2003, possessed all three resources. Successful agencies are those that fulfill the expectations of their clientele or of pivotal politicians, adapt to new circumstances, and develop good reputations. The three partially

¹² Nielsen (2003) shows how reform must be comprehensive in order to succeed in military agencies. The military agencies portrayed in her study are particularly difficult to reform. Though she does not say it explicitly, part of the reason for their intransigence may stem from the elemental nature of their tasks.

successful agencies, the CIA, FBI, and the FAA, possess some of these. The worst performer, the INS, has none of the above.

The presence of these three kinds of resources in successful agencies begs a question: how did agencies turn the reserve of existing resources into productive capacities? Adaptability, it turns out, requires a degree of autonomy. Agencies have to be able to know what they want to do and possess the autonomy to do it. As Emmerich (1971) observed, all agencies seek autonomy in the process of attempting to develop and exercise their own perspective. Like the resource-based theory of the firm in which managers pursue long-term growth “for the sake of the firm itself” more than for the sake of profit, autonomy in federal agencies can take on a life of its own (Loasby 1991; Penrose 1959, 29). Agencies grow and plan not merely in order to fulfill the wishes of members of Congress and of the president but also for the continuation and flourishing of the agency’s enterprise itself. Not all agencies possess autonomy, however. If an agency lacks coherence as a single entity, it cannot act with autonomy even though certain units within the agency might be able to exercise autonomy on a smaller scale. The agency exists in equilibrium: individual parts of the agency can gain knowledge, new missions, and new ways of doing things, but gaining too much of any of these risks disrupting overall coherence.

The three resources listed helped FEMA and the CIA and FBI at their best to adapt to new problems, whether natural disasters, counterterrorism or other dangers. FEMA was able to reorganize to become one of the most recognized brand names in government, with a reputation for efficiently serving disaster victims and for working well with state, local, and non-profit organizations. The impetus for FEMA’s post-1993

reform came not from elected politicians but from the ideas and experience of the emergency management profession. Similarly, when parts of the CIA and FBI innovated—to establish local counterterrorism offices for example—they possessed the three resources: a mature profession, an adaptable idea of what counterterrorism meant, and a crusading manager who connected the interests of the agency leadership with the demands of counterterrorism.

Not all agencies rushed to address new tasks, but we should not immediately assume that stasis implies a lack of innovation or adaptability. Sometimes the best way to respond to a changing environment is to preserve original responsibilities. There was wisdom in the CIA and FBI's decisions to resist transformation into counterterrorism agencies. Both lacked sufficient resources and an appropriate organizing concept to merge domestic counterterrorism intelligence gathering and law enforcement with other responsibilities. At best, the agencies could become holding companies for more specialized and coherent agencies. Politicians recognized that the intelligence and law enforcement agencies could not transform overnight and in fact should not neglect former missions; the president's creation of the National Security Service, among other measures, will build new counterterrorism capabilities that require different resources than those used for white collar crime or state-centered threats. Similarly, FEMA's strength lies in its ability to keep its natural and technological disaster capabilities from being overrun by terrorism concerns.

Resistance to political pressure requires bureaucratic autonomy, but an agency need not exercise autonomy to achieve successes. Agencies need sufficient resources to address a problem but not necessarily autonomy if pivotal elected politicians anticipate

the problem. In the case of the FAA, politicians and the flying public, through the media, focused attention on the goal of reducing the risk of air travel to virtually zero, a goal that, surprisingly, the agency was able to meet, working with industry and aviation professionals. The agency did not need to develop an independent perspective because attention was already focused on a problem of concern to the public.

Agency failures

While agencies that develop autonomy and sufficient resources to innovate might be the model for adaptability, not all homeland security agencies were able to achieve success. The agencies that fell short of expectations and were unable to adapt developed resources that were not compatible with new environments. Understanding why some agencies fail to innovate to solve new problems requires understanding how they went about building resources. The pursuit of autonomy, whether through reputation or the elemental nature of an agency's tasks, shapes how agencies acquire resources.

The FAA never developed a perspective independent of elected politicians but it did develop a reputation as a defender of public safety. Rewards—increased budget authority and prestige—accrued to the agency when it championed safety. Meanwhile, its security responsibilities languished because the agency never developed sufficient resources to address aviation security. Similarly, the INS had so many missions that it never developed sufficient resources to fully address any of them. The agency might have succeeded at its original mission to keep borders safe but it would inevitably fail at doing when faced with other conflicting responsibilities: allowing cheap labor into the country,

keeping out criminals and terrorists, and promoting political asylum and family reunification.

The CIA and FBI both acquired the resources listed above—intelligence and law enforcement professions, ideas about what the agencies existed to do, and vigorous administrative politicians to champion the agencies—but on the whole they resisted pressure to adapt to new challenges more than they innovated. Autonomy does not necessarily lead an agency to take on new tasks. The CIA and FBI resisted change in part because they followed what the literature on bureaucracy has long predicted: they wanted to preserve authority, budgets, and responsibility. The agencies' autonomy helps explain why they were able to resist strong pressure for major change, even during homeland security reorganization. The history of the CIA and FBI complicate the study of bureaucratic autonomy. On one hand, the agencies were able to use autonomy to innovate and develop more terrorism expertise than any other core federal agency. On the other, they long resisted changes that, in hindsight, might have made them better able to prepare for a world in which the threat of international terrorism was particularly immediate. Assembling sufficient resources and achieving bureaucratic autonomy will be no panacea to the complications of administrative governance but the exercise of autonomy helps explain why and how seemingly inexplicable federal agencies do what they do. However complex, the tasks of homeland security and counterterrorism are not impossible. Agencies have managed to prepare for disasters, compile intelligence, and reduce risks. Some agencies build resources in such a way that they are either ill-equipped to adapt or face greater risks than rewards for departing from existing tasks. Understanding how

agencies adapt requires understanding how they pursue autonomy and, in the processes, how they accumulate resources.

Reorganization and 9-11

Some agencies adapted in advance of a crisis, a process here termed adaptability, while others responded only after a crisis. The crisis of 9-11, however, was much greater than any other relevant event since Pearl Harbor. While some crises were known only to small groups of stakeholders or experts, the attacks of September 11 sent a shock throughout the country. Given the radically different political environment after 9-11, what does the history of adaptability and reorganization before the terrorist attacks have to contribute to the understanding of more recent events?

For one, the massive reorganization spawned by the attacks shows the limits of bureaucratic autonomy. No matter how powerful an agency is, it remains subordinate to legal structure, social consensus and agency resources. For example, even a relatively autonomous agency such as FEMA could only achieve so much following the terrorist attacks, buried in a large department whose task was security and deprived of experienced emergency managers in the ranks of its political appointees and senior career staff.

Clientele agencies, such as FEMA or the FAA, are more likely than elemental agencies to change following a crisis. The intense criticism of disaster management in the early 1990s led to a major reorganization of FEMA, and a similar groundswell following Hurricane Katrina may provoke reorganization. Clientele agencies are more disposed to change following a major crisis because their autonomy stems from their reputation

among influential social groups. During a severe crisis, the agency's relationship to a profession, social group, and the politicians that represent them becomes unhinged. These clienteles reward an agency for alleviating a crisis and punish it for slow response or a response not in accord with the opinion of a pivotal group. In the case of FEMA, the agency had to respond to disaster-stricken communities who were influenced by the media, experts, and their own need for disaster preparedness. Two other clientele bureaucracies, aviation and immigration, were massively reorganized following 9-11.

Elemental agencies, meanwhile, are more able to shape change according to their own preferences, which may be not to change at all. Since elemental agencies do not rely on reputation among clienteles for their autonomy, they are not as sensitive to the changing preferences of key social groups that may become agitated during a crisis. For instance, the CIA, perhaps wisely, thought that weapons proliferation to states was a more urgent issue than environmental degradation or terrorism).

For all the changes wrought by homeland security reorganization, the situation of most agencies is not radically different. Though some of the agencies in this study were recently moved into new organizational structures, neither the DHS nor the Director of National Intelligence office have proven themselves to be powerful coordinating organs. Both lack sufficient resources and experience to manage all the organizations that report to them. Thus, agencies could still benefit by developing sufficient resources—concepts, professions, and administrative politicians. These features contribute to adaptability and, in clientele agencies, to a good reputation.

The future of homeland security

How might historians evaluate homeland security reorganization in a decade or two? To borrow a phrase uttered after Pearl Harbor, "September 11 never dies."¹³ The event will remain too deeply engrained in the consciousness of everyone who lived through it for the number of memorials and public references to abate any time soon. For all the scholarly accounts of organizational learning and complexity, the sheer immediacy of the event improved terrorism preparation afterwards. Front-line workers notice suspicious persons, and their superiors take such persons seriously first and foremost because of the memory of 9-11, aside from any organizational change.

Nevertheless, politicians and the public were not content to let the crisis pass without enshrining increased attention to terrorism in organizational structures. Some agencies made great structural and policy improvements following 2001, and many more still fell short of their goals. The literature on bureaucratic failure provides sensible reasons not to expect perfection from any large and complex organization. And yet with some historical distance the major accomplishments of homeland security will be apparent. The emergency management profession has the resources if not the political support to incorporate terrorism into the all hazards, all phases framework. The intelligence agencies made a number of improvements that have long been recommended but never enacted until the political pressure following 9-11. The CIA improved communication across agencies and across levels of government. Two new agencies, the National Counterterrorism Center and the National Security Service, will further centralize counterterrorism capabilities. The former immigration and customs agencies combined some of their functions, and they may further combine and cross-train

¹³ Letter, Hanify to Kimmel, August 30, 1953. Quoted in Prange (1991), 739.

personnel in both service and enforcement functions, supplemented by specialized agents to handle complicated trade and security issues. The establishment of the Transportation Security Agency centralized functions that were long-neglected in the FAA.

This dissertation takes as its starting point not the creation of the Department of Homeland Security but the creation of security agencies following World War II that each had some responsibility for terrorism prevention and response. If the new department is to be successful, it must ensure that homeland security involves more than terrorism. The reorganization began with the mistaken though understandable assumption that we are besieged by terrorists. In truth, terrorism remains a real but only moderate threat alongside many other dangers including natural disasters, disease, and technological accidents. Unfortunately, the crisis of September 11 increases the likelihood that agencies will neglect their former missions to focus on terrorism. The most likely candidate for neglect may be FEMA, an agency with many more responsibilities than counterterrorism. It has faced intense pressure to make counterterrorism a core part of its mission and might be blamed for slow response in the event of another major attack. The CIA and FBI might also be blamed for another attack, but as elemental agencies they are less responsive to the shifting preferences of social or political groups. Congressional inquiries and statements from former employees show that both agencies have continued to devote fewer resources to counterterrorism than some critics want.

There are two routes that agencies might follow in the future to avoid giving non-terrorism missions short shrift. In one, agencies fold terrorism into their existing set of missions structured around an organizing concept. FEMA's all hazards and all phases

concept includes all of its missions so that none can be, in theory, completely neglected nor can one be privileged to the exclusion of others. In the other route, agencies create separate divisions to fulfill specific tasks so that no one task dominates all divisions. The president's creation of a separate National Security Service within the FBI to focus exclusively on terrorism follows this approach and may relieve other FBI branches of terrorism responsibility so that they can focus on organized and white collar crimes. Perhaps FEMA could spin off a similar terrorism entity.

The striking independence of elemental agencies poses a problem for democratic accountability. Few agencies perform tasks that are easily evaluated by the general public. Most people think that the Social Security Administration does a good job if they receive their checks quickly, but how are they to know whether more specialized agencies are doing a good job? Clientele agencies offer a means of accountability through reputation. In some cases a clientele may be merely another name for an interest group, but in others a clientele refers to a rich social network: a profession that may be critical of an agency or a social group that requires federal assistance in order to prosper. Autonomy in clientele agencies will last only as long as the clientele in whom the reputation resides is satisfied – witness the slow disintegration of FEMA following homeland security reorganization. Elemental agencies, however, are slow to acknowledge criticism and slow to change. Fortunately, consistently autonomous elemental agencies are few. These require constant public vigilance—in many countries they run rampant over civil liberties. Even so, their greatest virtue may be their resistance to change at a time when other agencies are quick to address new but perhaps fleeting threats.

As with other crises in American history, one can expect a substantial amount of attempts at revisionism. The 9-11 Commission was remarkably careful in not attributing blame for the attacks to any one actor but subsequent inquires may not be so restrained. Revisionism that compiles facts to remedy misunderstandings fulfills a useful purpose but revisionism that lays blame haphazardly does a disservice. In the case of homeland security, laying blame on any one agency or profession, or the threat of such scapegoating, may lead innovators to be overly cautious in addressing new dangers. Potential innovators should be held accountable like anyone else but too much blame and invective can discourage even moderate risk-taking.

What value will homeland security have for future generations? Though the United States was spared major terrorist strikes in the years immediately following 9-11, subsequent attacks around the world prove that terrorism will remain a threat in the future. Asymmetric warfare is too tempting to weak and disparate movements who cannot mount a traditional military or political campaign. Terrorism will take new forms in the future, but many of the concerns remain the same. Communication within and across agencies, adequate training, and sufficient intelligence and contingency plans will be necessary no matter what method terrorists use. At bottom, federal agencies must be able to adapt to new threats, in cooperation with state and local actors and private entities, while not neglecting former missions. The history of homeland security agencies provides examples of how some agencies managed to adapt and make real gains while other attempts at change and adaptation stalled. We must do more than prepare for the last attack, and to do so requires opening the black box of bureaucratic behavior and attempting to understand why agencies do what they do and, rather than assume

bureaucracies are hobbled by standard operating procedure and thus doomed to fail,
illuminating how agencies might adapt over time.

Appendix A.

Interview summary for chapter four

Total interviews conducted: **30**

FEMA national security staff: **3**

Agency directors: **1**

FEMA appointees: **4**

Career civil servants: **10**

State and local emergency managers: **4**

None of the above: **8**

Average phone or in-person interview length: **55 minutes**

Interview methods: **17** in person, **9** by phone, **4** by e-mail.

(In addition, I had conversations with many other participants in FEMA's development including state and local emergency managers, FEMA employees, and one additional FEMA director. I also learned much by attending emergency management conferences.)

Appendix B.

Interview summary for chapters five through seven

Total interviews conducted: **43**

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