

Organizing the Biden Presidency

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After the disruptive term of Donald Trump, President Biden initiated a restoration of the regular order of the presidency, which had been established by presidents of both parties over the past half century. This article will examine the establishment of the Biden presidency, beginning with his transition into office. It will analyze the White House staff and organization as well as Biden's use of his cabinet secretaries and the recruitment of political appointees.

Biden's White House presented a sharp contrast to President Trump's, whose staff was constantly in conflict, and who blew through four chiefs of staff, to whom he would not delegate sufficient authority to establish a regular policy process. Biden's use of his cabinet reflected the contemporary reality that policy making and advice to the president is centered in the White House staff rather than in the cabinet. Though he highlighted the role of his cabinet secretaries in his major policy initiatives, that role was primarily selling the policies to the public and Congress and implementation, rather than negotiating with Congress or crafting policy proposals. Biden did, however, allow the Justice Department to reassert its pre-Trump traditional ethos of independence from immediate White House control.

The Biden transition's approach to political appointments reversed the typical order of recruitment by prioritizing appointments not needing Senate confirmation (PA and non-career SES) rather than the typical focus on PAS appointments requiring Senate confirmation (aside from cabinet secretaries). This allowed the administration to swear into office more than 1100 appointees on his first day in office.

Though Biden was nominated as a moderate Democrat, his initial policy agenda involved aggressive spending initiatives totaling several trillion dollars to deal with the COVID pandemic, its economic fallout, traditional infrastructure repair, and social policy (deemed "human infrastructure").

The Transition

Beginning in the summer of 2020, it became clear that if Biden won, there would be no ordinary, peaceful transition. President Trump undermined public confidence in the upcoming election, and he refused to agree to a peaceful transition if he lost the election. Predicting the "most corrupt election in the history of our country," he claimed that mail ballots would be "fraudulent" and refused to say if he would accept the election outcome. "We are going to have to see what happens. . . . there won't be a transfer, frankly. There will be a continuation" (Haberman, et al. 2020; Crowley 2020).

After the election he falsely claimed that he had won the election and filed multiple lawsuits to challenge voting totals in various states. In more than 60 lawsuits challenging votes in the election, Trump won no court cases proving that illegal votes were cast for Biden or that election counting procedures shifted the election away from Trump (Rutenberg, et al. 2020). He

personally pressured state and local election officials as well as governors and legislators to reverse established vote totals. When these efforts were unsuccessful, he encouraged members of Congress not to count electoral votes that had been certified by the states he had lost. He even considered using military force to change the election. Finally, on January 6, 2021, he incited a mob of his supporters to attack the Capitol to prevent Congress from confirming Biden's victory (for details and documentation, see Pfiffner 2021a).

Despite Trump's efforts to invalidate and overturn the election, the Biden presidency hit the ground running. The groundwork for establishing the Biden presidency was laid during preparation for the transition before and after the election of 2020. Despite President Trump's attempts to reverse the election and thwart the incoming administration, Biden's operation was highly successful.

Presidential transitions prior to the 1960s tended to be relatively informal, and winning candidates often took time off to recuperate from the rigors of the campaign (Henry 1960). After John Kennedy had to spend some of his personal money for staff support after winning the 1960 election before taking office, Congress passed the Presidential Transition Act of 1963, which provided public funding for incoming and outgoing administrations. Jimmy Carter was the first president to set aside funds from his campaign before the election to prepare for governing, primarily for personnel vetting. However, his administration did not benefit from all of the preparation when disputes broke out between campaigners and transition workers.

Ronald Reagan was much more systematic, and appointed Pendleton James to set up a large-scale personnel operation in April of 1980, well before Reagan had formally won the nomination. With James's operation as well as many task forces and transition teams, the number of transition personnel at transition headquarters was well over 500 people. Consequently, Reagan's transition into office, though not necessarily smooth, was very effective (Pfiffner 1996).

Bill Clinton ran his transition from Little Rock, Arkansas and spent much of his time interviewing potential nominees for his cabinet and exploring policy options. In doing so, he neglected setting up his White House staff until January 1993, which slowed his transition into office. George W. Bush, despite the disputes over the outcome of the 2000 election, sent Dick Cheney up to Washington immediately after the election to begin work on presidential appointments. Cheney's government experience allowed Bush to take office effectively, despite the delay caused by the disputed Florida election.

The gold standard for effective interparty transitions was set by George W. Bush in 2008, when he instructed his administration to do everything possible to help the incoming Obama administration prepare for taking power (Kumar 2015). The level of cooperation between the incoming and outgoing administrations was unprecedented and allowed Obama to take office effectively in 2009.

Although President Obama issued similar orders to his administration after Trump won the 2016 election, the incoming Trump people did not take advantage of the offer of help (Lewis 2018). Trump did not believe that he needed any preparation, though he allowed Chris Christy to raise

funds and make preparations for vetting of potential nominees for Trump administration appointments. Immediately after the election, however, Trump threw out Christy and his vetted list of potential nominees and placed Vice President Pence in charge of the transition. Because of this and because of Trump's disdain for organization, his transition into office was the worst in the past half century.

Biden, with his intimate knowledge of the presidency, knew how important it was to prepare systematically for taking office. Ted Kaufman, one of Bidens advisors for many years who was appointed to serve the final two years of Biden's Senate term from 2009 to 2011, began preparation for a possible transition early in 2020. Kaufman was ideally suited for the job since he had been author of the Pre-Election Presidential Transition Act of 2010. The Presidential Transitions Improvement Act of 2015, which provided additional resources and mandates for transition preparation, was named after him.

After Bernie Sanders dropped out of the Democratic primary, Biden asked Kaufman, "Do you think it's time to start the transition?" (Kumar 2021, 4). Kaufman then brought in Mark Gitenstein, with whom he had been discussing a possible Biden transition operation. They then brought in Jeffrey Zients and Yohannes Abraham and other experience professionals to organize the full operation. They eventually recruited 1,500 transition staffers, including volunteers (Kumar, 2021; Kaufman 2021).

Kaufman and his colleagues met virtually and in secret to make preparations, primarily to vet personnel for possible appointments. Since they knew that appointments of PAS positions would be slow, they decided to focus on PA positions, which could be made as soon as Biden took office. By inauguration day, they had interviewed more than 8,000 people and had 1,136 PA appointments ready, including 206 White House staffers, on inauguration day (Kaufman 2021; Kumar 2021,9; Tenpas 2021c),

One reason for their success was careful coordination between transition and campaign operations. Natural friction usually occurs between campaigners who focus on winning the election and transition workers who can be seen as dividing up the spoils of victory before the battle has been won. These natural tensions were overcome through regular meetings and mutual trust (Kumar 2021) and Kaufman's admonition, "the transition does not make news, the campaign does" (Kaufman 2021).

Agency review teams (previously called beachhead or transition teams) totaling more than 500 people were set up to provide liaison with executive branch departments and agencies. Despite President Trump's resistance to the election outcome, White House staffer Chris Liddell and Mary Gibert, the GSA Federal Transition Coordinator, provided low key cooperation. After the delayed "ascertainment" of the election outcome by GSA Director Emily Murphy on November 23, the agency review teams were able to gain access to departments and agencies to prepare for new leadership.

In sum, despite Trump's resistance, the transition was so successful in preparing Biden's taking office because of the deep experience of the transition leaders and their relationship with the president elect. Their preparation was thoroughly professional and carried out with very low

public visibility. In contrast, the Trump transition was marred by the sudden change in leadership, their lack of experience, and infighting between Trump followers and traditional Republicans.

White House Staff and Organization

Biden's White House represents a return to the "regular order," common to presidencies over the past half century, which Trump rejected because his scorn for any sort of policy process. This regular order was characterized by Wallcott and Hult (2005) as the "standard model" of White House organization, including a modified hierarchical organization that structures the policy process and decision making to ensure that the president has the broad range of advice necessary for informed decision making. This model is characterized by a strong (but not domineering) chief of staff and several top aides having direct access to the president (Hess and Pfiffner 2021).

White House Staff

One of the advantages of the careful transition preparation was that Biden and Harris had designated 100 members of the White House staff by the end of 2020 (White House press release, 2021). Of the top 100 staffers in the Executive Office of the President at 100 days, 77 had experience in the executive branch, 74 had worked in the Obama administration and 62 had campaign or transition experience; 57 were women, 40 were non-white or Hispanic and 15 were African Americans (Tenpas 2021c).

According to the required report to Congress on the White House Office (due in the summer of 2021), Biden's listed a total of 567 White House staffers (in addition to more than 20 detailed from other agencies), more than the 377 under Trump and 487 under Obama (White House Office 2021; Andrzejewski 2021). Sixty percent of the White House staff (56% of senior staff) were women. Racially diverse White House staffers amounted to 44 percent of the White House Office (36% of the senior staff) (Egan 2021).

The effectiveness of Biden's WH staff was amplified by their having worked together in past administrations, and in particular, for Biden. This was in contrast to Trump's WH staff who were much less experienced in government and politics, which led to disorganization, back biting, and leaks (Pfiffner 2018; Hess and Pfiffner 2021). Despite the necessity of conducting meetings primarily on Zoom during its first six months, the new administration was able to move quickly on its policy agenda, because of the staffers shared experience with each other and the president.

In sum, Biden's White House staff had four advantages missing from the Trump White House: 1) deep experience at the top levels of government; 2) experience working for Biden himself; 3) familiarity with each other from previous government roles; and 4) ideologically, they had all worked in the policy main stream of their political party. Disagreements among the staff tended to fall along policy lines, rather than stemming from personal animus or vindictive leaks.

One of the advantages of the tight-knit White House staff was the lack of leaks that had plagued many other administrations, particularly the Trump White House. This discipline sprang from Biden's low key, no drama, persona (in contrast to Trump). It also reflected personal loyalty and

the mutual trust that came from top White House aides' previous experience with each other as well as discipline imposed from the top by chief of staff Ron Klain. Of course, the tight knit staff led to complaints typical of White Houses that the president was being kept in a "bubble" and that access to him was being unduly constrained (Korecki and Lippman 2021).

The initial Biden White House resembled the "well-oiled machine" that Trump had bragged about, but never achieved.

Ron Klain as Chief of Staff

As chief of staff, Ron Klain had the advantage of having been designated the week after Biden's electoral victory was determined, so he could begin organizing and staffing the White House. He had worked for Biden for decades in the Senate, on Biden's first presidential campaign, and was Biden's and Al Gore's chief of staff when they were Vice President. According to Klain, over his governmental career, he had worked for nine presidential chiefs of staff, more experience than any other chief of staff (Swisher 2021; Leibovich 2021). In addition, he also had the advantage of understanding the operation of the executive branch from his experience in handling President Obama's Ebola operation in 2014-2015.

Klain's deep background with Biden ensured that other staffers, cabinet secretaries, and members of Congress knew that he had the confidence of the president and could speak for him, in contrast to President Trump's chiefs of staff, who were frequently undercut by Trump (Pfiffner 2018). In the early months of the administration, Klain was the last person to see Biden at the end of the working day (Liptak, et al., 2021). Although he was clearly the most powerful person, short of the president, Klain insisted, "I'm a staff person, not prime minister" (Swisher 2021; Leibovich 2021).

Klain was known as a micro-manager, but not a domineering one, as were Sherman Adams, H.R. Haldeman, Donald Regan, or John Sununu (Pfiffner 1993). Just as James Baker kept in close touch with the conservative wing of the Republican Party for President Reagan, Klain was closely attuned to the progressive wing of the Democratic Party, in and out of the administration. Unlike some chiefs of staff, such as Dick Cheney, Jack Watson, or Andrew Card, Klain played a relatively public role; he was active on Twitter and on Sunday talk shows.

Part of the top-down discipline of Biden's White House was message control, which often entailed requiring journalists to confirm quotes of administration officials who spoke on background. While resented by the press, the practice minimized the types of backbiting leaks and walkbacks of statements that typified the Trump White House (Schorr 2021; Nuzzi 2021).

The chief of staff position was created by President Eisenhower in the 1950s. When he was elected, he drew on his military experience to invest a person with gatekeeping authority to settle issues that could be handled without direct presidential involvement. He chose Sherman Adams for that position because of his help in the 1952 campaign. Adams did what Ike wanted, but in a heavy-handed manner, which eventually alienated enough people so that when he got caught up in a scandal, he was forced to resign.

In reaction to the Adams experience, Kennedy and Johnson chose not to employ a chief of staff and were able to run their presidencies without one; they wanted personal control of the White House and did not want any one person short of themselves in charge. Nixon reverted to the Eisenhower model, with H.R. Haldeman as chief of staff; Haldeman was a martinet in his conduct of the office. His role in Watergate brought him down, leading to his resignation and prison sentence. In reaction to Nixon and Haldeman, both Ford and Carter tried to run their White Houses without chiefs of staff, but both gave up after unsuccessful attempts. The main reason for their failure was the increase of the size of the White House Office under Nixon who had more than 500 people in the White House when he left office. Since the 1960s, the chief of staff position has been central to the operation of the presidency, but that does not mean that they were equally successful.

During President Reagan's first term, James A. Baker was perhaps the most successful occupant of the office. He was sure to keep Reagan's other top advisors, Michael Deaver and Edwin Meese, in the loop as well as paying close attention to First Lady Nancy Reagan. Baker's success contrasted sharply with Donald Regan, who was chief of staff during Reagan's second term. Regan was imperious and shut out other staffers with the pretense of "letting Reagan be Reagan." George H.W. Bush's White House was dominated by chief of staff John Sununu, who abused his power and alienated others who were important to the president, before he was forced to resign.

Intellectually, Bill Clinton knew that he needed a chief of staff, but he miscast his childhood friend, Mack McLarty, in the position, who by temperament ("Mac the Nice") was not suited for the role. After a year, Clinton realized his mistake and brought in Leon Panetta, who imposed order on the White House, including corralling Clinton's impulse to lengthy meetings without coming to closure.

George W. Bush appointed Andrew Card to be his chief of staff, who effectively ran the White House, but whose authority was overshadowed by Vice President Cheney, who was the major source of power, short of the president. The colorful Rahm Emanuel played a major role in President Obama's White House, guiding his legislative strategy and alienating cabinet secretaries, who resented being treated as Emanuel's "minions."

Donald Trump blew through four chiefs of staff in four years because he was unwilling to delegate to them sufficient authority to actually run the White House. Even former Marine general John Kelley, after valiant attempts to impose some order on the policy making process in the White House, was fired after 18 months because Trump refused accept any regular order in his White House (Pfiffner 2018).

Klain's service as Biden's chief of staff returned the position to the traditional formula for a successful presidency. He had firm control of the policy making process, but he did not insist on being the only conduit to the president. Several other staffers also had "walk in" privileges to the Oval Office, including Mike Donilon (the campaign's chief strategist), Steve Ricchetti (who had been with Biden since the 2012 campaign), and Bruce Reed (chief of staff when Biden was VP), each of whom had at least ten years of experience with Biden. (Korecki and Lippman 2021).

Biden Style

Early in his administration Biden began most days with a workout with his trainer and watching news shows on TV. His workday schedule generally lasted from 9am to 7pm, and he often spent weekends at his home in Delaware (Parker 2021). In contrast, Trump often stayed up late into the night tweeting and did not get to the Oval Office until late in the morning. Biden had scheduled weekly luncheons with Vice President Harris, as Biden had when he was Obama's Vice President.

One of the marks of an effective White House is a regular policy process, and Klain provided that for Biden. Biden did not throw temper tantrums, like Trump often did, but he insisted on knowing the specifics of policy proposals explained in simple language that voters could understand.

Rather than an impulsive decision maker (thus similar to Obama but contrasting with Trump), Biden was deliberative. According to National Security Advisor Jake Sullivan, "You can never give [Biden] too much detail" (Shear, et al. 2021). For instance, despite pressure from liberals, he deliberated for weeks before reversing Trump's limits on refugee admissions to the United States. According to Jeffrey Zients, Biden insisted: "Bring me the news, good, bad and ugly . . . I want the details" (Shear, et al. 2021).

The Cabinet

President elect Biden had announced 12 of this cabinet nominees by the end of 2020 and the other three by January 7, though Senate confirmations for Biden took longer than most of his recent predecessors (only Trump was slower). Several factors contributed to the relative delay of confirmations. President Trump refused to accept the outcome of the election, and his resistance culminated in the assault on the Capitol on January 6. The partisan split in the Senate was not decided until the January 5, 2021 runoff elections in Georgia, in which two Democrats were elected. But the Senate (unlike the House) is a continuing body, so Republicans continued to chair the committees until an "organizing resolution," was reached. (Binder 2021). This did not happen until new Democratic Senators were sworn in on January 20, giving Democrats control of 50 of the 100 seats and allowing Vice President Harris to cast tie-breaking votes. These factors delayed hearings on Biden nominees for several weeks, and the impeachment of former President Trump also took up much Senate time in the first few weeks of the Biden administration (Jaffe 2021).

From Clinton through Obama, 95% of nominees to the cabinet had Senate hearings prior to inauguration (Condreay et al. 2021). Because of the delays mentioned, only five Senate hearings on Biden's nominees took place before inauguration (Hitlin 2021). Two weeks after his inauguration, Biden had only a third of his nominees confirmed, whereas Presidents Clinton, Bush, and Obama cumulatively had 90% of their cabinet nominees confirmed by the same time in their administrations (Hitlin, 2021). Only Trump was later with his nominations and had only four of his nominees confirmed within two weeks of inauguration (Hitlin 2021). Reflecting the careful transition vetting process, Biden was the only president since Ronald Reagan to have all of his initial nominees confirmed by the Senate (Kane 2021). Only cabinet level OMB nominee Neera Tanden had to be withdrawn for lack of Senate support.

During the transition, Biden promised, “I’m going to keep my commitment that the administration, both in the White House and outside in the Cabinet, is going to look like the country” (Merica 2020). In many ways, Biden kept his promise. Though the number of Biden’s non-white cabinet members was the same as Presidents Clinton and Obama, he appointed more women to his initial cabinet than any previous president, with Janet Yellen at Treasury, Deb Haaland at Interior, Gina Raimondo at Commerce, Jennifer Granholm at Energy, and Marcia Fudge at HHS (Tenpas 2021c). Biden appointed three Latinos: Xavier Becerra at HHS, Alejandro Mayorkas at HHS, and Miguel Cardona at Education.

Biden also made several unprecedented appointments to his cabinet, with Yellen the first woman at Treasury, Haaland the first native American at Interior, Lloyd Austin the first African American at Defense, and of course the first woman and African American elected as Vice President, Kamala Harris.

In addition to cabinet secretaries, presidents often convey “cabinet status” on other high-level appointees in their administrations, both PA and PAS. Most recent presidents included the vice president, chief of staff, OMB director, and director of national intelligence (CIA director before DNI was created). Biden included these appointees as well as his ambassador to the UN, US Trade Representative, Small Business Administrator, Council of Economic Advisers chair, EPA administrator, and head of the Office of Science and Technology Policy (White House 2021).

During the transition Biden decided to involve his cabinet actively in his administration. According to senior advisor Anita Dunn, “That [was] a very deliberate decision. This is a president who wanted to make sure he had a cabinet that was fully empowered” (Karni 2021; Condon 2021). When introducing his major policy initiatives Biden singled out members of his cabinet to take the lead in advocating the policies to the public and Congress.

Biden’s intention to use his cabinet members actively in his policy agenda echoed the promises of “cabinet government” in the 1970s and 1980s. Presidents Nixon, Ford, Carter, and Reagan each promised to return to the way that President Eisenhower used his cabinet in organizing his administration, which included some level of independence in the administration’s policy agenda and in choosing their immediate subordinates, even though they were presidential appointees. But despite their idealistic early intentions, each of these presidents ended up centralizing control in the White House staff (Pfiffner 1996, 34-55).

A number of factors led to this centralization of control in the White House. First, the functions of the federal government grew significantly in the 1960s, with many programs and agencies added to the federal bureaucracy. Second, the White House Office had increased by several hundred staffers, in part because presidents wanted more personal control of the executive branch in order to manage the larger bureaucracies. Third, since many public policies involve more than one cabinet department, some coordinating mechanism had to settle disputes and impose order on governmental programs. As a result, White House staffers became the primary advisers for presidents, and the hundreds of staffers had closer access to the president than cabinet secretaries. Understandably, cabinet secretaries resented their diminished stature and clout, which resulted in inevitable friction between White House staffers and cabinet secretaries.

In addition to advising the president, Cabinet secretaries had their hands full managing thousands of employees and billions of dollars.

Thus Biden did not depart from most of his modern predecessors in the role his cabinet played in his administration. He did, however, differ starkly from President Trump in several important respects. For one thing, in keeping with most of his predecessors, he appointed cabinet secretaries who were generally advocates for the areas of their responsibilities. In contrast, for most of his domestic cabinet, President Trump appointed people who were hostile to the traditional missions of their departments (Pfiffner 2018).

In addition, Biden got along well with his cabinet picks and did not undercut them publicly or treat them with contempt, as did President Trump. Trump often clashed publicly with his cabinet appointees, particularly Rex Tillerson (State) and Jeff Sessions (Justice), and unceremoniously fired a number of them by tweet. As a result, the turnover of Trump's cabinet secretaries was greater than in any recent administration. He fired ten cabinet secretaries, in addition to four resignations after the January 6 assault on the Capitol; only four stayed on for the full four year term (Tenpas 2021a). Trump also filled his cabinet with more "acting" secretaries than any other president (Condon 2021).

White House "Czars"

Recent presidents have increased the use of special, temporary "czars" to take the lead on specific policy initiatives. These czars are most often members of the White House staff (permanent or temporary) and not confirmed by the Senate. These appointments can help the president by publicly symbolizing the importance of a policy area to the president and provide a focus for presidential initiatives. Czars can use their positions to coordinate policy among different executive branch agencies. The potential downside is that their influence is dependent on their access to the president (who cannot give them all full attention) and the czars can confuse who authoritatively speaks for the president (Pfiffner 2009; Sollenberger and Rozell 2021).

In addition to White House leadership of the major legislative initiatives dealt with below, Biden turned to his White House staff rather than his cabinet for his most important policy initiatives. Biden's climate policies were dominated by climate "czar" Gina McCarthy and her staffers and special climate envoy John Kerry, rather than by EPA Director Michael Regan (Thompson et al. 2021). Brian Deese, chair of the National Economic Council and Susan Rice, chair of the domestic policy council were as influential in economic policy as Treasury Secretary Janet Yellen (Thompson, et al. 2021). Senior advisor Gene Sperling was charged with overseeing the implementation of the \$1.9 trillion American Rescue Plan (a role that Biden had played for Obama's stimulus plan when he was vice president.) Although implementation of the plan was under the jurisdiction of the Treasury Department and IRS, it made sense for a White House person to oversee coordination with other departments and agencies.

White House control of policy was highlighted in Biden's appointments of special envoys for foreign policy issues, bypassing Foreign Service Officers and political appointees in the State Department. In his first several months in office, Biden appointed special envoys for the Horn of Africa, Libya, Yemen, the Northern Triangle, Iran, and climate change. These special envoys

supplemented nine already existing special envoy positions. It could be argued that the proliferation of envoy positions increased the complexity of policy making and fostered turf wars in the State Department and other departments (Bruen and Erel 2021).

Thus Biden's early relations with his cabinet resembled the way previous presidents had used their cabinets over the past half century. That is, he emphasized their importance in his administration and occasionally sought their policy input, but the focus of policy making was clearly in the White House. With few exceptions White House staffers dominated advice to the president and coordinated cabinet input.

Justice Department

These examples of White House control of the cabinet contrast with Biden's relationship to the Department of Justice. The Justice Department is an outlier among other cabinet agencies because of the sensitivities of the power of law enforcement. In the beginning of his administration, President Biden signaled that he would grant much more autonomy to the DOJ than had the Nixon or Trump administrations. His stance was in line with the DOJ ethos that had developed in administrations after Nixon and before Trump.

The relationship between the president and the Justice Department has always been sensitive. As head of the executive branch, the president legitimately provides overall policy direction of DOJ. On the other hand, specific decisions about the application of justice, e.g. whether to investigate or prosecute individuals should be made on the legal merits of the case at hand, not on the personal political wishes of the president. One landmark of authoritarian regimes is the use of the legal system to reward friends and punish political enemies of the chief executive. In the 1970s the Nixon administration was known for abusing presidential authority over DOJ to aid the political interests of the president. After that era of abuse, DOJ developed an ethos of insulating itself from political manipulation by creating administrative barriers to communications between White House personnel and the department (Pfiffner 2021b).

These norms, expectations, and ethos were violated by President Trump in numerous ways. He publicly declared his exclusive, proprietary control over the Justice Department, "I have absolute right to do what I want to do with the Justice Department" (CBS News 2017). Most significantly, Trump fired FBI Director James Comey to thwart his investigation of connections between Trump's campaign and Russia and later tried to interfere with Special Counsel Robert Mueller's investigation. He tried to pressure the Justice Department to falsely affirm that the 2020 election was corrupt (Benner 2021). Trump also publicly attempted to intervene in specific DOJ decisions about investigations and prosecutions.

In the 2020 campaign Biden accused Trump of treating the Justice Department as his "own law firm," and during the transition, he told his nominees for the Justice Department "You are not the president's or the vice president's lawyers. Your loyalty is not to me. It is to the law. To the Constitution. The people of this nation. To guarantee justice" (Ewing and Naylor NPR; Feuer and Weiser 2021). Attorney General Merrick Garland himself declared that he would "show the American people by word and deed that the Department of Justice pursues equal justice and adheres to the rule of law" (Jurecic 2021). Garland seemed to bend over backwards not to be

seen as taking any actions that would imply political retribution against the Trump administration's politicization of the Justice Department (Montgomery 2021).

As a result of this independence, Biden was criticized when DOJ decided to continue to defend Trump from a state law suit in which a woman sued Trump for defamation for verbally attacking her while he was president (she claimed that he had raped her in the 1990s). The Justice Department under President Trump moved to quash the suit, arguing that the president was not subject to being sued for statements made while he was president.

This put Biden in a difficult situation, since he did not want to be seen as defending Trump from what Biden considered to have been inappropriate behavior toward the woman, yet Biden had promised legal autonomy to DOJ. The Department of Justice perspective was that it was defending the institution of the presidency rather than the individual, Donald Trump, because of the implication that presidential statements in the future might open presidents up to more litigation (Jurecic 2022). After much public criticism, a Biden spokesman said that the White House "was not consulted by D.O.J. on the decision to file this brief or its contents," but Biden did not order a reversal of DOJ's legal position (Feuer and Weisner 2021).

The department also made several controversial decisions regarding Trump administration actions: it continued to withhold parts of the internal memo former AG Barr used to undermine the Mueller Report before it was released; it moved to dismiss a lawsuit concerning the clearing of Lafayette Park for President Trump's photo-op; and it refused to release details of Donald Trump's lease of his Washington hotel from GSA (Montgomery 2021). In answering a question at a congressional hearing, Garland said, "Look, the job of the Justice Departments in making decisions of law is not to back any administration, previous or present. . . . Sometimes it means that we have to make a decision about the law that we would never have made, and that we strongly disagree with as a matter of policy" (Montgomery 2021).

President Obama faced a similar situation when its Justice Department decided to use the state's secrets privilege to challenge suits accusing the George W. Bush administration's rendition of terrorist suspects to foreign countries. On the other hand, Obama had promised his Attorney General Eric Holder that on legal issues, he would have independent leeway to make judgments on the merits of the case. Yet when Holder decided to try terrorist suspects in US, Article III courts, the administration was forced to back down and rein in Holder to enforce White House political priorities (Pfiffner 2013).

In the summer of 2021, Attorney General Garland decided to formalize his instructions to DOJ by issuing a memo limiting contacts between the White House and DOJ to the highest levels of the department and only for general policy direction, not particular decisions to investigate or prosecute. "The success of the Department of Justice depends upon the trust of the American people. . . . through our adherence to the longstanding Departmental norms of independence from inappropriate influences, the principled exercise of discretion, and the treatment of like cases alike" (DOJ 2021; Gerstein 2021). Thus, with respect to the Department of Justice, Biden seemed to keep his promise to forego inappropriate personal involvement.

Political Appointments

Presidents of incoming administrations are notoriously slow in making appointments, in part because the United States has more political positions than any other modern industrialized democracy, with parliamentary systems having only several hundred political appointments to make. In contrast, a new president can fill more than 3500 political positions.

Most of the delay in getting appointments on board has been due to vetting and getting people actually nominated. At the end of their first two years in office, Bush 43, Obama, and Trump had made no nominations for 30% of Senate confirmed positions (Lewis 2021, 38). During his first two years, it took President Trump an average of 316 days to make a nomination. Though most delays are due to presidential failures to nominate, Senate confirmation has slowed from an average of 56 days during the Reagan administration to 115 days in the Trump administration (Partnership for Public Service 2020).

Although the numbers fluctuate a bit, the 2020 Plum book listed these categories:

Presidential Appointments with Consent of the Senate (PAS)	1118
Presidential Appointments needing no Senate Confirmation (PA):	354
Non-Career (i.e. political) Senior Executive Service: (NC-SES)	724
Schedule C positions (SC: GS-15 and below)	1566

[Source: U.S. House of Representatives, Committee on Oversight and Reform. 2020. *Policy and Supporting Positions*, December, p. 212.]

For a new administration to hit the ground running in appointing the leaders of the executive branch, there is no substitute for preparation, and the Biden transition team began early in the spring of 2020.

Although cabinet positions are always critical for a new administration, the Biden transition team realized that Senate confirmations of other PAS positions would be slow. So they decided to devote significant resources to vetting candidates for positions not needing Senate confirmation, particularly White House staff and non-career SES positions. Transition personnel director Suzy George worked with 250 transition personnel in addition to 200 volunteers to vet potential nominees and appointees (Thompson and Sfondeles 2021c).

This reversed the approach of most previous incoming administrations, which prioritized PAS appointments. After interviewing more than 8,000 candidates, the White House was able to swear in 1,136 appointees not needing Senate confirmation on Inauguration Day (more than Obama and Trump combined), 206 of which were White House staffers (Kaufman 2021; Kumar 2021; Tenpas 2021c). Although initial cabinet appointments are most highly visible and symbolic, White House staffers are central to establishing a new administration and creating an orderly policy process. This approach continued tight White House control of all levels of political appointments (since the Reagan administration), rather than giving broad leeway to cabinet secretaries to independently select their own subordinates.

Due to careful preparation, at the 100 day mark, with 220 PAS nominations, Biden led his six predecessors (White House Transition Project 2021); in confirmations, Biden had 41 PAS positions confirmed, more than Trump (with 28) and Bush 43 (with 34), but fewer than Obama (with 67) (Hiatt 2021; Padilla 2021). His relative early success in confirmations slowed, however, and by the 180 day mark, his nominations fell behind Obama, Reagan and W. Bush. In confirmations, Biden was significantly behind the average of his six predecessors except for Trump (White House Transition Project 2021). At six months, of the most important 796 PAS positions, Biden had nominated 183, with 98 confirmed, which made his appointments pace faster than Trump's but slower than Obama or Bush 43 (Partnership for Public Service 2021). In nominations of women for presidential appointments, Biden far outpaced his predecessors, 54% compared with previous average of 34% (White House Transition Project 2021).

In his first six months, Biden moved more quickly than his predecessors in sending nominations to the Senate, but the Senate took more than three times longer to act on his nominees than the Senate did for his predecessors (White House Transition Project 2021). Biden's relatively quick start with PAS nominations at the 100 day mark reflected thorough preparation and vetting during the transition. But the slowing of confirmations at 180 days might be explained by several factors. Cathy Russell, director of the Presidential Personnel Office, had about 80 people working for her, significantly fewer than during the transition. In addition, vetting the many social media accounts of potential nominees became more time consuming in recent years (Thompson and Sfondeles 2021c).

Biden's Policy Agenda

The policy preparation during the Biden transition became apparent in the first weeks of his administration. The president's hugely ambitious, three-part "Build Back Better" agenda was compared to the legislative programs of FDR and LBJ, and contrasted with the less ambitious legislative agendas of his immediate predecessors, G.W. Bush, Obama, and Trump (especially Trump, see Edwards 2021). Biden was personally active in lobbying Congress, and through June, 2021, he had met with more than 200 members of Congress to argue for his policy agenda (Ignatius 2021). Although he signed fewer bills into law in his first 100 days than most of his modern predecessors (only 11), the significance of his enacted \$1.9 trillion American Rescue Plan was considerable.

Consistent with the secular trend of centralized policy control, the White House staff were the primary initiators and negotiators for Biden's plans. Cabinet secretaries helped advocate the plans to the public and Congress, and implemented those policies that became law.

American Rescue Plan

The first part of Biden's Build Back Better agenda was designed to provide direct financial relief to individuals and revive the economy after the COVID recession as well as provide financial support for vaccinations and testing. The American Rescue Plan (aka the COVID-19 Stimulus Package) provided \$1400 direct payments to individuals, extended unemployment benefits with a \$300 weekly supplement, and emergency paid leave benefits as well as funds to replace tax income loss suffered by state and local governments. The total spending authorized by this budget resolution amounted to \$1.9 trillion. It passed the House (218-212) and the Senate by

simple majority vote, using the reconciliation process to avoid a filibuster, with Vice President Kamala Harris casting the tie breaking vote. Democrats, however, had to drop their \$15 federal minimum wage proposal, because the Senate parliamentarian ruled that the \$15 minimum wage was not strictly a spending or tax measure and could not be included in the reconciliation bill. Biden signed the bill into law on March 22, 2021.

Counselor to Biden, Jeffrey Zients, coordinated COVID response planning during the transition and led policy development for the initiative for the bill. Zients was well qualified because of two stints as acting director of OMB and chair of the transition team. In the first months of the administration, he met with top members of his 21 person team, virtually and in person, six days a week (Terris 2021). One of the few White House officials who regularly briefed the president in person, Zients said that Biden continually insisted on learning the operational details of his planning (Wilner 2021).

This cross-cutting leadership role necessarily had to be run out of the White House, rather than any one agency, though Zients briefed cabinet level officials weekly (Wilner 2021). In contrast, President Trump held only sporadic meetings with his COVID response team and often publicly disagreed with them (Wagtendonk, 2020). The administration accomplished its self-declared goal of administering 100 million vaccinations in its first 100 days, but fell slightly short of the goal of vaccinating 70% of the adult populations by July 4.

American Jobs Plan

In the second part of its Build Back Better agenda, the administration proposed its American Jobs Plan, which would have spent \$2.2 trillion over eight years to renew the infrastructure (broadly defined) of the United States. Previous presidents had unsuccessfully sought common ground between the parties on beginning to repair the grossly neglected infrastructure of roads, bridges, rail, airports, electric grid, as well as water and sewer systems. In addition to traditional infrastructure, the proposal also included what Democrats termed “human infrastructure,” such as workforce development, affordable housing, and home care worker support. The proposal included a range of tax increases to pay for the investments, including increases in the corporate tax rate, eliminating tax loopholes, and increased enforcement funding for the IRS.

During his first full cabinet meeting on April 1, Biden named his “Jobs Cabinet” of five cabinet secretaries who would “take special responsibility” for his American Jobs Plan. “Working with my team here in the White House, these Cabinet members will represent me in dealing with Congress, engage the public in selling the plan, and help work out the details as we refine it and move forward” (Condon 2021). The team included the secretaries of Transportation, Energy, Commerce, Labor and HUD.

When it became clear that Republicans would strenuously oppose the huge spending package and tax increases, Biden worked with a committee of five Republican and five Democratic members of Congress to whittle the bill down to measures that were more traditionally considered physical infrastructure. In late June, an agreement in principle between the Republican and Democratic negotiators was reached. Biden, however, almost doomed the agreement when he said that he would not sign it unless it was accompanied by a separate bill that included the social spending that Democrats favored.

When Republicans cried foul, Biden quickly walked back his statement and said he would sign the bill, and that he would pursue the other Democratic priorities on a separate track. After more weeks of negotiations, a bi-partisan group of legislators reached an agreement on a \$1 trillion, 2700 page bill, half of which was new spending and half already planned expenditures on roads and bridges. The spending would repair roads and bridges, replace all lead water pipes in the country, expand broad band access, repair major airports, modernize the energy grid, and build electric vehicle charging stations across the US (Romm 2021).

The president personally lobbied members of Congress to achieve the agreement, with crucial negotiations undertaken by senior Biden aide, Steven Ricchetti. In addition to Ricchetti, NEC Director Brian Deese, director of White House Operations, Louisa Terrell, and Commerce Secretary Raimondo were the main negotiators with Senate Republicans (Stein and Pager 2021; Kim 2021). Terrell's negotiating team conducted more than 330 phone calls or meetings with members of Congress, and the Office of Legislative Affairs met with members of Congress more than 60 times (Kim 2021). The infrastructure bill passed the Senate in early August, though the House would have to pass it if it were to become law.

American Families Plan

The third leg of Biden's Build Back Better agenda was the \$1.8 trillion American Families Plan, which included measures that were dropped from Biden's original infrastructure bill ("human infrastructure"). Provisions included paid family leave, financial allowances for children, preschool for three and four year olds, as well as free community college and an expansion of the earned income tax credit.

Overall, it proposed spending \$1 trillion on new investments and cutting \$800 billion in taxes for lower income people. The expenditures would be paid for by increasing taxes on the rich through increasing the top bracket by 2.9%, treating capital gains as regular income for those making more than \$1 million, and increasing IRS funding by \$80 billion over ten years (Ewall-Wice 2021). In announcing his \$1.8 trillion American Families Plan before a joint session of Congress on April 28, Biden named four cabinet members to his "Families Cabinet" (Treasury, Education, Agriculture) and Cecilia Rouse, chair of the CEA (Memoli 2021).

Biden's FY2022 Budget Proposal

President Biden's May 2021 budget proposed total spending of \$6 trillion for Fiscal Year 2022 (OMB 2021, 37). Of course, the spending totals were changed as the proposals developed into more specific legislative measures. Democrats in Congress proposed enacting a broad range of Democratic priorities through a ten-year, \$3.5 trillion framework that included portions of the American Jobs Plan (that were dropped in order to seek Republican support for the infrastructure bill) and most of the provisions of the American Families Plan. With Republican opposition guaranteed, the framework for spending would have to pass the Senate as a reconciliation bill. Since some of the measures included did not directly involve taxing or spending, such as immigration reform, labor laws, and voting rights, the Senate parliamentarian would likely rule that they could not be included in a filibuster-proof reconciliation bill. As of August 2021, it was not certain that Biden could get both the House and Senate to vote for all of the Democratic policy agenda.

It is not surprising that the lead in both policy development and negotiating with Congress on Bidens's most important policy initiatives was dominated by White House staffers rather than cabinet secretaries.

Unilateral Policy Actions

With the rise of the polarization in Congress, presidents have been increasing the use of unilateral, executive directives to reverse policies of prior administrations and implement new policies (Pfiffner 2017). Biden had previously said that he would prefer to make policy change through legislation rather than unilateral action, "I've spent most of my career arguing against the imperial presidency," but the reality of Republican opposition in Congress led him to use his unilateral powers actively (Tumulty 2021). On his first day in office, he issued 17 executive orders, memoranda, and proclamations, changing US policy to rejoin the World Health Organization, the Paris Climate Accord, and ending Trump's ban on entry of people from primarily Muslim countries, among other policy changes (Kavi 2021).

Among his predecessors, Biden stood out significantly, issuing more executive orders (42) in his first 100 days in office than any president since Franklin Roosevelt. In contrast, Trump issued 33, Obama 19, and W. Bush 11 (Woolley and Peters, 2021). In addition, Biden also issued many symbolic proclamations, commemorating certain dates or praising individuals. The themes of many of these unilateral actions included COVID-19, climate change, and diversity.

In contrast to his predecessors, more of these executive orders (half) were directly aimed at reversing actions of his immediate predecessor; 21 of Biden's orders reversed Trump's, versus 8 for Trump, 7 for Obama, and 5 for W. Bush. More broadly, Biden reversed 76 of Trump's unilateral executive actions (Woolley and Peters 2021). According to Biden, "I'm not making new law – I'm eliminating bad policy" (Rudalevige 2021). The number of documents signed by Biden understates the scope of his actions, since many orders may be contained within one issued document. For instance, EO 13990 directed 40 distinct actions, including revoking 9 executive orders and directed that 13 regulations be reviewed (Woolley and Peters 2021).

Thus Biden continued the 21st century trend, due to congressional polarization, of using executive actions to accomplish policy goals that could not make it through Congress.

Conclusion

The most striking aspects of the Biden presidency were its contrasts to the Trump administration and its similarity to all other administrations since the 1970s. Biden's first half year in office represented a restoration of the traditional "regular order" of the presidency and a rejection of President Trump's idiosyncratic approach to leadership. Biden's White House was run by professionals with deep experience in the presidency and with Biden himself. Ron Klain managed the White House as a traditional, strong chief of staff, but not an overbearing one.

Biden did not reverse the trend of centralized control of the cabinet in the White House staff, though he highlighted the importance of his cabinet secretaries in selling his agenda to the public and Congress. The Justice Department was an exception to this trend, and Attorney General

Garland reversed President Trump's politicization of the Justice Department by creating more distance between it and the White House.

The Biden transition's approach to personnel recruitment reversed the typical focus on PAS appointments. In doing so, the administration was able to swear in more than 1100 appointments not needing Senate confirmation on inauguration day, an innovation likely to be followed in future presidential transitions.

The Biden legislative agenda was the most ambitious in decades, proposing \$6 trillion in spending on a broad range of Democratic priorities. Biden also used his independent executive authority aggressively to accomplish policy goals through executive orders, memoranda, and proclamations.

It remains to be seen whether future presidents will continue Biden's traditional approach or revert to President Trump's vision of the presidency as a personal rather than an institutional office.

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