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## ORIGINAL ARTICLE

# President Trump and the Shallow State: Disloyalty at the Highest Levels

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*President Donald Trump often complained about the “deep state” of career civil servants who, he asserted, were determined to undermine his presidency. But it was his own presidential appointees who most visibly resisted his directives. Political appointees are expected to be the most loyal advocates of a president's policy agenda, riding herd on the many bureaucracies of the executive branch. This article analyzes resistance to Trump's policy directives by his own appointees in the White House, cabinet, military, and intelligence community. It concludes that this level of resistance is unprecedented in the modern presidency.*

President Donald Trump often complained about the “deep state” of career civil servants who, he asserted, were determined to undermine his presidency. But it was his own presidential appointees who most visibly resisted his directives. Political appointees are expected to be the most loyal advocates of a president's policy agenda, riding herd on the many bureaucracies of the executive branch. Yet Trump's appointees in the White House, cabinet, military, and intelligence community refused to carry out many of the president's directives to an extent unprecedented in the modern presidency. President Trump's appointees went well beyond the normal disagreements about policy that characterize every administration; they resorted to slow-walking orders, refusing to comply with directives, and even outright sabotage (e.g., removing documents from the Resolute Desk in the Oval Office). Even Vice President Mike Pence, under Trump's pressure, refused to break the law when presiding over the formal counting of electoral votes on January 6, 2021. Leadership is central to the

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presidency (Piffner 2018, 2021). The resistance to President Trump by his own appointees illustrates how different Trump's leadership was from other modern presidents.

## The Deep versus the Shallow State

Even though they take the same oath of office, the roles of career public servants and political appointees differ in important respects. Career bureaucrats are expected to remain neutral with respect to party and politics. In contrast, presidential appointees are partisans who are recruited to advance the president's policy agenda. Both sets of officials are expected to faithfully carry out the legal and ethical directives of the president.

### The Deep State

References to the deep state generally refer to the permanent government, that is, the career political and military professionals who are hired and promoted through the merit system on the basis of their qualifications and experience rather than their political affiliation (Glennon 2017; Nou 2017; O'Connell 2021).

The ethos of professional public administrators is that they must behave neutrally with respect to partisan politics and be willing to serve presidents of either political party. This neutrality requires civil servants to willingly set aside their personal preferences as citizens when they are acting as public professionals. This commitment to partisan neutrality ensures that the career bureaucracy is at the direction of, though not at the disposal of, the president and by extension his or her political appointees (Hecl 1977; Moynihan and Roberts 2021; Weber 1946; Wilson 1887).

Not surprisingly, the duty to adhere to the policy agendas of presidents of different parties has always been fraught with tension because civil servants often have personal political and policy preferences that favor the policies of one political party over the other. But as long as directives from political superiors are legal and ethical, government workers are duty bound to carry them out, whether or not they personally agree with the policy direction. If career public administrators disagree with administration policies, there are legitimate ways to register their disagreement without violating their duties. But once their voices have been heard, their duty is to implement the policies. Despite this strong ethos of professional public administrators, presidents often suspect that career bureaucrats cannot be trusted to carry out their policies with sufficient commitment.

When President Trump came to office, it seemed to many career employees that it was the equivalent of a hostile takeover. In his campaign for the presidency Trump had promised to "drain the swamp" in Washington, by which he meant career bureaucrats. His top campaign aide, Steve Bannon, declared that the purpose of the Trump presidency was to undertake the "deconstruction of the administrative state" (Kettl 2017; Rucker and Costa 2017).

During the Trump administration, some civil servants likely violated the spirit of neutrality in implementing administration policies (Nou 2016; Pfiffner 2019). Some of them testified in his first impeachment trial, despite Trump's attempts to stonewall the House Judiciary Committee. Any resistance from career bureaucrats, however, was not as effective or as blatant as the resistance by President Trump's own political appointees in the White House and at the highest levels of the executive branch.

### The Shallow State

During the spoils system of the nineteenth century, most government workers were chosen based on their political affiliation. The Pendleton Act of 1883 created the merit system, in which professional qualifications were required for hiring, and political patronage was gradually reduced. By the 1950s, the federal merit system had expanded to cover most executive branch workers. But beginning with the creation of Schedule C positions in 1953, the number and levels of political appointments increased, and by the twenty-first century there were approximately 4,000 positions that presidents could fill, far more than any other contemporary democracy (Lewis 2012; Moynihan 2021; Pfiffner 2020).

White House staff and cabinet secretaries are the most powerful leaders in the executive branch. They are recruited and carefully chosen for their commitment to each president's policy priorities and entrusted with significant authority to carry out his or her orders. Resistance to presidents from their own appointees is highly unusual. Presidential appointees are presumably bound by personal loyalty to their president, ideological commitment to the administration's policy goals, and their loyalty to the president's political party. They are also highly ambitious and want to achieve policy goals to get credit for their loyal service. Overriding these loyalties, however, should be the oath of office that they take to “support and defend the Constitution of the United States” (5 U.S. Code, par. 3331).

Loyalty to the president's priorities, however, should not mean blind obedience; presidential advisors have a duty to give presidents their own unvarnished advice, but as is the case with career workers, once the president makes a decision, it is their duty to carry it out. In order to make wise decisions, it is crucial for presidents to listen to arguments on all sides of issues they are considering. What is striking about the Trump administration is that cabinet officials, and even White House staffers, had serious reservations about following some of the directives of the president; they sometimes resisted his directives based on their reservations.

In addition to the natural friction between presidential administrations and career civil servants, as is common in most administrations, the conflict between President Trump and his own appointees can be viewed as a clash between personal control and institutional continuity. Skowronek et al. (2021) characterize President Trump's approach to the presidency as a “unitary executive” approach, which holds that

individual presidents should have complete control of the executive branch (Crouch et al. 2020; Pfiffner 2008, 219–22).

In contrast, some Trump administration officials felt that the president should adhere to the institutional norms and procedures that were developed in the presidency during the twentieth century. Skowronek et al. (2021) characterize the institutional perspective as concerned with due process, procedural safeguards, informed decision making, and collective responsibility.

These procedural aspects of the administrative state were designed to impose a rational decision making structure on presidents so that they would take into account the many possible consequences of their decisions. Ideally, these procedures would prevent presidents from making decisions based on personal whims that might jeopardize the country or national security. In contrast to this collective model of policy deliberation, Skowronek et al. argue that the “unitary executive” approach led Trump to feel that his personal wishes should determine executive branch policy.

Trump's confidence in his own instincts often led him to shut out or ignore his White House staff and cabinet secretaries, who thought that they were helping Trump achieve his policy goals by moderating his excesses and insisting on regular policy processes. But “the more the president's advisers enlisted regular processes to stave off unilateral action on Trump's preferred positions, the stronger his impulse became to shut down deliberations and to dictate decisions on his own authority” (Skowronek et al. 2021, 68).

So, what motivated President Trump's appointees to resist, and sometimes outright sabotage, his policy directives? Most of Trump's appointees agreed with his general policy goals; after all, they agreed to work in his administration:

1. Some agreed strongly with specific policies but thought that Trump was going about them in a counterproductive way. They thought that there were more effective ways to accomplish the same goals and objected to his means to achieve those goals, for instance, Trump's “Muslim ban,” border policies, some national security policies, and his approach to Justice Department issues.
2. Some agreed with his general policy goals but thought that some specific policies were not in the best interest of the United States, for instance, Trump's hostility toward NATO, NAFTA, the Korean free trade agreement, and U.S. allies.
3. At other times, his appointees saw themselves as constitutional guardians or the “adults in the room” who could protect the country from Trump's potentially unwise or illegal directives, for instance, his Lafayette Square incident (discussed below) or his consideration of using U.S. military troops to seize voting machines during the 2020 election. Some also refused to carry out Trump's orders to protect themselves and their reputations. Examples of each of these types of motives are illustrated and explained below.

Sometimes the resisting appointees were successful in delaying or stopping Trump's policy wishes and sometimes they were not. The more important point has to do with the nature of Trump's leadership that resulted in unprecedented resistance to him by his own appointees

*New York Times* Letter by “Anonymous”

Resistance to Trump's decisions by his own political appointees early in his administration was highlighted in an op-ed article by “Anonymous” published in the *New York Times*. The writer was later identified as Miles Taylor, who was deputy chief of staff to Kirstjen Nielsen, the Secretary of Homeland Security. The article announced: “I Am Part of the Resistance inside the Trump Administration” (Anonymous 2018). After the letter was published, President Trump tweeted “TREASON?” (Baker and Haberman 2018).

In the shocking article, Taylor explained that “the dilemma—which [President Trump] does not fully grasp—is that many of the senior officials in his own administration are working diligently from within to frustrate parts of his agenda and his worst inclinations.” Taylor claimed not to be resisting from the left and said he supported many of the president's policies. But the president “engages in repetitive rants, and his impulsiveness results in half-baked, ill-informed and occasionally reckless decisions that have to be walked back.” The article explained that the resisters “believe our first duty is to this country” rather than to the president and they would “do what we can to preserve our democratic institutions while thwarting Mr. Trump's more misguided impulses until he is out of office” (Anonymous 2018). It could be argued that if Taylor felt so strongly that he should have resigned, rather than continue to work in the administration. But like other Trump appointees (Isgur 2020), he felt that he could serve the administration and the country more effectively by staying in place and moderating Trump's instincts.

### White House Staff Resistance to Trump

In all administrations, high-level White House staffers have occasionally talked the president out of taking some ill-advised action. In the Trump administration, however, such warnings took place to an unusual extent. What is truly extraordinary in the Trump White House is that some members of his White House staff actively thwarted the president's wishes and undermined his policies; sometimes they were successful and sometimes not. White House staffers are the closest advisors to presidents, and the level of resistance coming from those closest to President Trump is unprecedented, as the incidents below illustrate.

On April 5, 2017, Steve Bannon and Environmental Protection Agency director Scott Pruitt, without any policy deliberation about the issue, went to the Oval Office and gave Trump a written proposal to withdraw from the Paris Climate Accord. Staff secretary Rob Porter considered a withdrawal unwise and judged that the issue had not been fully examined for legal or policy implications. Fearing that the president might pick up the proposal and make an announcement, Porter took the draft statement off Trump's desk (Woodward 2018, 191). Later, after multiple reviews, Trump did withdraw from the pact.

On April 25, 2017, Trump demanded that his staff prepare a document withdrawing the United States from the NAFTA pact with Mexico and Canada. “I want it on my desk on Friday.” Gary Cohn, director of the National Economic Council, and Staff Secretary Porter thought that this precipitous act would be a disaster for the U.S. economy and relations with the two nations. Porter noted that the agreement called for a 180-day notice before one of the nations could withdraw, but he agreed to prepare a document for the president to sign. Calculating that if Trump did not see the document, he would forget about it, Cohn and Porter decided to “slow-walk” the order. Cohn told Porter: “I can stop this. I’ll just take the paper off his desk before I leave. If he’s going to sign it, he’s going to need another piece of paper” (Woodward 2018, 155–59). Trump eventually compromised and renegotiated portions of the NAFTA agreement.

On June 8, 2017, at a meeting on steel tariffs, commerce secretary Wilber Ross was ready with a report recommending steel tariffs on China. Porter noted that the law required that the Secretary of Defense be consulted about national security implications. Trump said, “get it done quickly,” but James Mattis ordered a formal defense study done before he decided how to advise the president. The decision had been effectively delayed, though Trump eventually did impose steel tariffs on China (Woodward 2018, 160).

At the end of August 2017, Trump wanted to fulfill a campaign promise to withdraw from the U.S. free trade agreement with South Korea (KORUS), even though James Mattis, Rex Tillerson, H. R. McMaster, and John Kelly advised against it. On September 5, a letter appeared in Trump’s in-box stating, “the United States hereby provides notice that it wishes to terminate the Agreement.” Fearing that withdrawing from KORUS would have unacceptable national security effects, Kelly told Porter: “The president’s unhinged.... Rob, you’ve got to put a stop to this” (Woodward 2018, 263–64). Economic adviser Gary Cohn knew that the letter had not gone through a policy vetting and judged that if Trump saw the letter, he would sign it; so Cohn quietly removed it from Trump’s desk. Later, after a formal meeting on the issue, Trump continued to pursue the idea, but Cohn and staff secretary Rob Porter simply did not follow Trump’s order to prepare another draft letter. Eventually, Mattis talked the president out of abandoning the agreement with South Korea (Woodward 2018, 264–65).

Early in the administration, the president’s son-in-law, Jared Kushner, had trouble getting a security clearance, thus preventing him from seeing sensitive information and the president’s daily intelligence briefing (PDB). He was granted a temporary “interim” clearance. But in February 2018, Chief of Staff John Kelly directed that those with interim security clearances not be allowed to see top secret/sensitive compartmented information (TS SCI). Kushner’s difficulties probably stemmed from his financial dealings with foreign banks and governments as well as his contacts with Russian officials that he initially neglected to disclose on his security clearance form (SF86). The career personnel who handled security clearances judged that the potential for foreign inducements or blackmail was sufficiently grave that they recommended against giving him a TS SCI clearance.

When the president, who had the legal authority, finally directed that Kushner be granted the clearance, Chief of Staff John Kelly wrote a memo to the files saying that he had been ordered by Trump to give the clearance to Kushner. White House Counsel Donald McGahn also wrote a memo explaining why he recommended that Kushner not be given the security clearance. These unusual actions by White House appointees were explicitly taken because they thought that the president's judgment was wrong on the clearance issue. Once Kelly and McGahn were given direct orders, they complied but formally registered their dissent. It is highly unusual for White House staffers to write formal memos to the files to protect themselves against any allegations of impropriety (Haberman 2019).

During the Mueller investigation about possible Trump campaign coordination with Russia, Trump tried multiple times to get special counsel Robert Mueller fired in order to thwart the investigation. White House Counsel Donald McGahn confirmed that President Trump several times directed him to have Mueller removed, which he refused to do. Trump then directed McGahn to “create a record stating he had not been ordered to have the Special Counsel removed” (Mueller 2019, Vol. II, 5–6, 117–19). McGahn refused and prepared to resign from his position (Mueller 2019, Vol. II, 78, 86). Frustrated that Attorney General Jeffrey Sessions would not fire Mueller, the president then directed Chief of Staff Reince Priebus to call Sessions to convince him to turn in his resignation. Priebus initially agreed, but later decided not to follow the president's order (Mueller 2019, Vol. II, 95).

President Trump also directed Priebus to have National Security Council official K. T. McFarland write “an internal email that would confirm that the President did not direct Michael Flynn to call the Russian Ambassador about sanctions” (Mueller 2019, Vol. II, 42). The plan was for McFarland to resign and become ambassador to Singapore. She refused to write such an email, but she did write a memo to the files explaining her decision, noting that writing the letter would look too much like a quid pro quo offer from the president to get her to write the email (Mueller 2019, Vol. II, 43).

McGahn was known as “Mr. No” because he often resisted Trump's ideas that he considered illegal or ill-advised, and he resigned within two years. He was replaced by Pat Cipollone, who took care not to confront Trump directly so that he could act as a guardrail when Trump was tempted to act on Rudy Giuliani's legal advice (Leonnig and Rucker 2021, 372). When Trump was trying to overturn the 2020 election, he asked his lawyers to take a case directly to the Supreme Court. Cipollone seemed to agree but then said to colleagues: “It's just not happening.... But we're going to go find some other options [rather than going to the Supreme Court] to bring him so that we're not just telling him no” (Leonnig and Rucker 2021, 372).

The above pattern of White House staff resistance to Trump directives was reflected in the Mueller Report, which concluded that “the President's efforts to influence the investigation were mostly unsuccessful, but that is largely because the persons who surrounded the President declined to carry out orders or accede to his requests” (Mueller 2019, Vol. II, 158).

Two of the White House staffers noted above expressed their motivations for resisting some of Trump's directives. Staff secretary Rob Porter said, “A third of my job

was trying to react to some of the really dangerous ideas that he had and try to give him reasons to believe that maybe they weren't such good ideas" (Woodward 2018, xix). When top economic adviser Gary Cohn recounted how he removed decision papers from the president's desk, he said, "It's not what we did for the country. It's what we saved him from doing" (Woodward 2018, xix).

The difference between slow-walking a presidential decision and an orderly policy process can be blurry, but these examples demonstrate a lack of confidence in Trump's judgment by some of the highest officials in his administration. The White House staffers noted above judged that the presidential directives they received were sufficiently harmful to the country that they chose to delay their compliance or to outright resist the president's orders. That they were not always successful does not detract from the implications of their efforts.

## Cabinet Secretaries

Cabinet secretaries are the highest non-elected officials in the executive branch (Executive Level I). They are carefully chosen by the president to implement administration policies. Occasionally, there are public disputes between presidents and cabinet secretaries, and most often these are reported as cabinet–White House staff friction. Although presidents occasionally feel the need to fire their cabinet appointees, the reasons seldom stem from outright refusals to carry out presidential directives. Most often, secretaries are allowed to resign gracefully, and presidents tend to downplay departures from their administrations.

In contrast to other presidencies, the Trump presidency was marked by high levels of antipathy between the president and some of the most important cabinet positions, for example, those in the Departments of State, Defense, Justice, and Homeland Security; departures were often carried out by tweets accompanied by insults from the president.

### State Department

On August 8, 2017, President Trump reacted to North Korea's testing of missiles that might be used against the United States, saying that any threats "will be met with fire and fury like the world has never seen." The language had not been discussed with his top national security team—McMaster, Mattis, or Tillerson—or with his chief of staff, former general John Kelly. After Trump's remarks, Secretary of State Tillerson tried to reassure the country, saying, "I think Americans should sleep well at night, have no concerns about this particular rhetoric of the last few days" (Baker and Harris 2017). The next day, Trump said of his previous rhetoric that "maybe it wasn't tough enough" (Baker 2017), and later in a speech to the United Nations, he threatened to "totally destroy North Korea" (Nakamura and Gearan 2017).



On September 30, when Rex Tillerson was in Beijing negotiating with the Chinese to gain their help with North Korea, he told reporters: “We have lines of communication to Pyongyang.” But the next day, Trump tweeted that Tillerson “was wasting his time trying to negotiate with Little Rocket Man. Save your energy Rex, we’ll do what has to be done” (Baker and Sanger 2017). The president had just undercut the credibility of his secretary of state in a public and humiliating way. When asked about the president’s comment, Secretary Mattis contradicted the president, saying, “We’re never out of diplomatic solutions” (Bat 2017).

After Secretary of State Rex Tillerson had left the administration, he recalled: “So often, the president would say, ‘Here’s what I want to do and here’s how I want to do it,’ and I would have to say to him, ‘Mr. President, I understand what you want to do, but you can’t do it that way.’ It violated the law” (Blake 2018).

### Department of Homeland Security

In April 2019, Secretary of Homeland Security Kristjen Nielson refused to implement a White House plan to arrest thousands of immigrants in major cities across the country and deport them. She and Customs Enforcement deputy Ronald Vitiello refused to implement the plan, not for ethical, legal, or moral reasons, but because they thought the plan was not well thought through and that that it would use resources that were needed for ongoing border operations. Nielson and Vitiello were fired by Trump and replaced shortly after they refused to carry out the president’s wishes (Miroff and Dawsey 2019).

When Trump was trying to overturn the 2020 election, he suggested in a White House meeting that the Department of Homeland Security should seize voting machines from states that had voted for Biden in order to inspect them for fraud. But acting secretary of DHS Chad Wolf told Trump that they had no authority to do so (Sonmez et al. 2020). Attorney General William Barr said that he saw “no basis now for seizing machines by the federal government” (Olorunnipa and Wootson 2020). After DHS Trump appointee Christopher Krebs declared that “the November 3rd election was the most secure in American history,” Trump fired him (Peiser 2020).

### Department of Defense

In the spring of 2017, Trump was upset about the trade deficit with South Korea. In addition to wanting to withdraw from the United States—Korea free trade agreement, he ordered the removal from South Korea of the U.S. Terminal High Altitude Area Defense (THAAD) installation, which was essential for detecting any missiles coming from North Korea. He felt that the cost of the installation was too high, and he wanted the installation moved to Portland, Oregon. Ignoring the advice of his national security adviser H. R. McMaster, Secretary of Defense James Mattis, and economic advisor Gary Cohn, Trump demanded: “Fuck it, pull it back and put it in Portland!” (Woodward 2018, 106, 224). McMaster told the South Korean chief of

national security that the United States would stand by its agreement unless it was fully renegotiated. Mattis refused to carry out the direct order until he was able to talk the president out of his decision (Woodward 2018, 106, 224).

In April 2017, after Bashar al-Assad ordered a sarin gas attack on rebel forces, Trump told Secretary Mattis on the phone: “Let’s fucking kill him! Let’s kill the fucking lot of them.” Mattis said he would follow up on it. He then hung up the phone and said, “We’re not going to do any of that.” Mattis and his staff then prepared military options for the president, who ended up ordering a strike of 60 Tomahawk missiles on a Syrian airfield (Woodward 2018, 146–47).

On July 26, 2017, President Trump tweeted that, contrary to then current policy, the military would not allow any transgender individuals to enter the armed forces. After Trump’s tweet, Chairman of the Joint Chiefs of Staff Joseph Dunford and Secretary James Mattis refused to implement the president’s wishes until they received a formal policy directive from the White House. That is, they slow-walked the policy change. During the delay, court cases were filed and the directed policy change was suspended (Woodward 2018, 201–3). In 2019, the Supreme Court allowed the ban to go into effect.

In May 2020, Trump said that he wanted to recall retired generals Stanley McChrystal and William McRaven, who had been publicly critical of Trump, and have them court-martialed. Secretary of Defense Mark Esper and Chairman of the Joint Chiefs, General Mark Milley resisted, and Trump relented only after Milley said that he would personally talk to them about not speaking so publicly about Trump (Lamothe 2022). Articulating his self-perceived role as guardian, Esper wrote in his memoir (2022): “If I wasn’t there and Milley wasn’t there, what would have happened?”

During the summer of 2020, Trump was frustrated about drug cartels in Mexico and asked Esper twice if the United States could use military force. “We could just shoot some Patriot missiles and take out the labs quietly, and no one would know it was us” (Haberaman 2022). Esper explained that it was against international law and refused to take action.

On November 11, 2020, General Milley was given a memo, signed by President Trump, stating: “I hereby direct you to withdraw all U.S. forces from the Federal Republic of Somalia ... and the Islamic Republic of Afghanistan no later than 15 January 2021” (Woodward and Costa 2021, 156–58). Neither Secretary of Defense Christopher Miller nor General Milley nor National Security Advisor Robert O’Brien had been consulted or informed about the abrupt policy change. Milley and Miller went to the White House, and Trump was convinced to rescind the memo. The memo was reportedly prepared by White House personnel director John McEntee and Vice Pence’s advisor Douglas Macgregor (Woodward and Costa 2021, 158).

## Department of Justice

Former senator Jeffrey Sessions, one of Trump’s earliest endorsers in the 2016 campaign, denied that he had any contact with Russians during the 2016 campaign.

After being appointed attorney general, it became clear that his previous statement was false, and he decided to recuse himself from the FBI investigation into Russian interference in the 2016 presidential election. As the investigation of possible cooperation continued in the spring of 2017, Trump expressed frustration with Sessions for recusing himself and not firing FBI director James Comey. In May 2017, Trump fired Comey, and Acting Attorney General Rod Rosenstein appointed Robert Mueller to conduct the investigation into the Trump campaign.

As Mueller's investigation progressed, Trump became angrier and tweeted that Sessions should fire Mueller. When Sessions refused to reverse his recusal decision, Trump publicly denounced Sessions (Keneally 2017; Leonnig et al. 2018). In an interview with the *New York Times*, Trump said: "Sessions should have never recused himself, and if he was going to recuse himself, he should have told me before he took the job and I would have picked somebody else..., which frankly I think is very unfair to the president" (Baker et al. 2017). Referring to Sessions as "beleaguered," Trump tweeted: "I am disappointed in the Attorney General" (Conway 2017). As noted above, Trump also asked several members of his White House staff to get Sessions to resign, though they refused to do so (Mueller 2019, Vol. II, 5–6, 78, 86, 117–19).

It was an extraordinarily unusual situation to have a president fire the FBI director and then publicly rebuke and impugn the integrity of his appointed leadership of the Department of Justice, including his attorney general, his deputy attorney general, and the deputy's appointee, Mr. Mueller, as well as the acting director of the FBI, Andrew McCabe. The lack of responsiveness from the Justice Department led Trump to refer to it as the "Deep State Justice Department" (Stewart 2019, 279).

After the 2020 votes were counted it became clear that Joseph Biden had won the presidency, but Trump declared that he had won and that the Democratic victory was a fraud. Over the next two months, Trump undertook a number of actions to overturn the election results. Some of those actions involved the Department of Justice.

The Department of Justice had a long-standing practice not to investigate allegations of election irregularities until after votes were certified so as not to insert itself into the politics of campaigns. Nevertheless, on November 9, Attorney General Barr instructed his subordinates to begin investigating Trump's false claims of election fraud (U.S. Senate 2021, 5). After the investigations, Barr told Trump on December 1 that Justice Department investigations had "not seen fraud on a scale that could have effected a different outcome in the election" (Benner and Schmidt 2020).

According to the Senate Judiciary Committee Majority Staff Report, *Subverting Justice*, Trump "directly and repeatedly asked DOJ's acting leadership to initiate investigations, file lawsuits on his behalf, and publicly declare the 2020 election corrupt" (U.S. Senate 2021, 2). As part of his efforts, Trump worked with the assistant attorney general for the Civil Division of the DOJ, Jeffrey Clark, who agreed with Trump that the election had been marred by fraud.

On December 28, 2020, after talking with Trump, Clark emailed Acting Attorney General Jeffrey Rosen and Principal Associate Attorney General Richard Donoghue, attaching a draft letter ("Georgia Proof of Concept") saying that the DOJ had taken notice of irregularities in the 2020 election and that a special session of the

state legislature should be called to “consider appointing a new slate of Electors.” He further suggested that similar letters be sent to “each relevant state” (U.S. Senate 2021, 4). Rosen and Donoghue rejected Clark's proposal, after which Clark disclosed that Trump had offered to fire Rosen and replace him with Clark. The implied threat was that if Rosen sent the letter, Clark would reject Trump's offer to replace him.

The issue of the Clark-drafted letter to Georgia and the replacement of Rosen by Clark came to a head on January 3 when Rosen, along with his deputy, Richard Donoghue, were called to a meeting with Trump and Clark in the Oval Office. According to Rosen, Trump stated at the beginning of the meeting: “One thing we know is you, Rosen, aren't going to do anything to overturn the election” (U.S. Senate 2021, 38). Note that Trump did not say challenge the vote count but specified “overturn the election.” According to notes taken by Deputy Attorney General Richard Donoghue, on December 27, Rosen told Trump that the Justice Department could not change the outcome of the election. Trump responded: “just say the election was corrupt and leave the rest to me and the [Republican] Congressmen” (U.S. Senate 2021, 16). Rosen told Trump that he would not send the letter to Georgia because there was no evidence of fraud or irregularities in the election.

Donoghue told Trump that he and seven DOJ assistant attorneys general (all Trump appointees) would resign if Clark were appointed to replace Rosen. The president's counsel, Pat Cipollone, calling Clark's proposal a “murder-suicide pact,” said that he and his deputy would also resign if Trump carried out his plan to replace Rosen with Clark (U.S. Senate 2021, 250–54). At the end of the meeting, Trump decided not to replace Rosen with Clark.

As illustrated by the above examples, President Trump's most important cabinet secretaries—State, Defense, Justice, and DHS—refused to carry out the president's preferences, directives, and orders. This type of resistance to a president by the highest appointed leaders in the executive branch is unprecedented in the modern presidency.

## Military and Intelligence Officials

The highest-ranking officers in the U.S. military services reach their positions through lengthy careers, but they are technically presidential appointees who must be confirmed by the Senate. Even though the president makes personal decisions about the highest-ranking officers, for practical purposes they are not considered political appointees but rather experts who achieve their ranks through rigorous selection processes. Since the president is constitutionally the commander in chief of the military services, officers are legally bound to carry out all lawful orders. In addition, strong professional norms and regulations prohibit active-duty military officers from publicly participating in partisan politics or criticizing presidential decisions. Thus, the level of public commentary and professional resistance of military leaders to President Trump was highly unusual.

Top-level intelligence officials, such as the director of the CIA and director of national intelligence, are political appointees, personally selected by the president, and they presumably reflect the president's policy views. Strong norms in the intelligence community constrain intelligence officials from publicly disagreeing with the president. Thus, it is unusual that the highest-level appointees in the intelligence community at times resisted President Trump.

### **Military Leadership**

For all of his posturing about the military power of the United States, President Trump did not respect the norms of military leadership. He undermined the independent professionalism of the U.S. military in a number of ways. In his campaign for the presidency, Trump denigrated the military. He declared that “our military is a disaster” and in “shambles” (Eder and Philipps 2016; Milbank 2016). He declared: “There's nobody bigger or better at the military than I am.... I know more about offense and defense than they will ever understand, believe me” (Bacevich 2017).

President Trump demonstrated his attitude toward his most senior military leaders as well as his secretaries of state and defense in a meeting with them in July 2017. The meeting took place in “the Tank,” the most secure room in the Pentagon, reserved for military decisions of the highest order. After Tillerson and Mattis briefed Trump on the status of U.S. forces around the world, Trump lashed out at his top civilian and military leaders: “You're all losers.... You don't know how to win anymore.... I wouldn't go to war with you people.... You're a bunch of dopes and babies.” No commander in chief had ever spoken to his top national security appointees in that manner (Leonnig and Rucker 2020).

In August 2017 at a “Unite the Right” rally in Charlottesville, Virginia, white supremacists carrying Nazi and Confederate flags chanted “blood and soil” and “Jews will not replace us.” In a conflict with counterprotesters, a young woman was killed when a protestor drove a car into a crowd. After the incident, in a public statement President Trump said, “There were very fine people on both sides” (Woodward 2018, 246). In response to the violence, uniformed leaders of each of the military services issued public statements condemning the white nationalists. These unusual repudiations of a president's remarks by currently serving chiefs of the military services were unprecedented (Cohen and Starr 2017).

The United States has a strong norm that the U.S. military should not be used within the United States except in exceptional circumstances. Trump skirted this norm in June 2020 when he insisted that Chairman of the Joint Chiefs, General Mark A. Milley (in his combat uniform) and Secretary of Defense Mark Esper accompany him to Lafayette Square, across from the White House in front of St. John's Church so that he could pose holding a bible. As Trump was leaving the White House, riot police cleared demonstrators who were protesting the killing of African American George Floyd by a white policeman.

Trump had wanted to deploy 10,000 active-duty troops during the incident, and in a meeting with Esper, Milley, and Vice President Pence, asked, “Can't you just shoot

them? Just shoot them in the legs or something” (Roche 2022). Esper recalled that Trump was “waiting, it seemed, for one of us to yield and simply agree. That wasn't going to happen” (Pengelly 2022). Trump was enraged by their refusal to act and said to the three: “You're losers! You are all F\*\*\*ing losers!” (Roche 2022).

This episode led former national security officials to break the long-standing norm of not publicly criticizing the commander in chief. Milley apologized for his participation, saying, “I should not have been there.” Defense Secretary Esper also said he was against using military troops in domestic situations, except in the “most urgent and dire of situations” (Cooper 2020a).

Given former Secretary of Defense James Mattis's strong feelings about the norm of not criticizing a president in office, it took a lot to move him to go public with his criticism of Trump. After the killing of George Floyd and the driving of protestors from Lafayette Square, Mattis issued a statement condemning the president's actions. “Donald Trump is the first president in my lifetime who does not try to unite the American people—does not even pretend to try.” “We are witnessing the consequences of three years without mature leadership.” “We know that we are better than the abuse of executive authority that we witnessed in Lafayette Square” (Schmitt and Cooper 2020).

After the killing of George Floyd, proposals were made to rename military bases that were named after Confederate generals. Former Secretary of Defense Robert Gates agreed, saying that the bases named after Confederates represented “the dark side of our history ... The events since the killing of George Floyd present us with an opportunity where we can move forward to change those bases” (Baker 2020). Top military leaders in the Pentagon were favorable to the proposals, but President Trump decided against them (Petraeus 2020). Carefully evading Trump's wishes, Defense Secretary Mark Esper issued guidelines specifying the types of flags that could be displayed in military installations, which would exclude the Confederate flag (Cooper 2020b).

That such entrenched norms were broken by acting and former military leaders demonstrates how dangerous they thought that Trump was for the United States.

After the 2020 election, former general and Trump advisor Michael Flynn suggested that Trump could impose martial law and “take military capabilities ... and basically rerun” elections in states won by Biden (Sonmez et al. 2020), and in a White House meeting Trump suggested that voting machines could be seized in order to challenge the established vote count. White House discussions of the use of military force to change the election outcome worried U.S. military leadership so much that the Secretary of the Army, Ryan McCarthy, and the Army Chief of Staff, General James C. McConville, felt it necessary to issue a public statement declaring: “There is no role for the U.S. military in determining the outcome of an American election” (Sonmez et al. 2020). Chairman of the Joint Chiefs of Staff, General Mark Milley, said in a speech, “We do not take an oath to a king or a queen, a tyrant or a dictator. We do not take an oath to an individual.... We take an oath to the Constitution” (Sonmez et al. 2020). Never before in the United States had military leaders felt compelled to reassure the nation that military force would not be used to affect the outcome of an election.

Trump's consideration of using military force was so alarming that on January 4, 2021, all 10 of the living former secretaries of defense wrote a public letter stating that “any efforts to involve the U.S. armed forces in resolving election disputes” would be dangerous and potentially criminal. They argued that the Trump appointees in the Defense Department were bound by oath to facilitate the transition of the incoming administration and “refrain from any political actions that undermine the results of the election or hinder the success of the new team” (Former Secretaries of Defense 2021). In his memoir Esper recalled, “The U.S. military was not going to get involved in the election, no matter who directed it. I would intercede” (Chatelain 2022).

In a call with Speaker Nancy Pelosi in January 2021, General Milley agreed with her that Trump was unpredictable and assured her that standard procedures would prevent Trump from using nuclear weapons. Milley also called his Chinese counterpart to reassure him that the United States had no plans to attack China. In order to head off any unexpected actions by the president, Milley called a meeting of officers assigned to the National Military Command Center and told them that if they received any calls from the White House or any irregularity, they were to inform him before taking any action (Woodward and Costa 2021, xiii–xxvii). The only known precedent for a military leader warning of a possible dangerous decision by the president was Secretary of Defense James Schlesinger's order during the impeachment proceedings in 1974 that military commanders not execute any nuclear launch orders from President Richard Nixon without checking with Schlesinger or Secretary of State Henry Kissinger first (Graff 2017; Priess 2018, 51).

On January 9, 2021, with the January 6 insurrection on his mind, General Milley wrote a memo, signed by the Joint Chiefs of Staff, that stated: “January 6, 2021 was a direct assault on the U.S. Congress, the Capitol building, and our Constitutional process. On January 20, 2021... President-elect Biden will be inaugurated and will become our 46th Commander in Chief” (Woodward and Costa 2021, 274). Never before had a U.S. military leader felt the need to publicly assure the nation that the constitutional transfer of power to a new president would take place.

Civilian control of the military, based on the commander in chief clause of the Constitution, is ingrained in the professional training of the U.S. officer corps. President Trump's actions were so alarming to active-duty and former military leaders that they were willing to break long-held traditions of deference to presidents and speak out publicly in criticism of the commander in chief.

## The Intelligence Community

In line with President Trump's distrust of the career services, he considered the intelligence community to be part of the “deep state,” out to undermine his administration (Barnes and Goldman 2020). This distrust grew out of his assertion that there was no attempt by Russia to interfere with the 2016 election, despite the consensus among the CIA, NSA, FBI, and DNI that Russia had in fact tried to influence the 2016 election outcome in Trump's favor.

In the spring of 2017, Trump's frustration with the intelligence conclusions grew, and he asked Director of National Intelligence Dan Coats and National Security Agency Director Mike Rogers to help him politically by stating publicly that there was not any collusion between the Trump campaign and Russia (Rohde 2020a). He also asked FBI Director Comey to deny publicly that Trump was personally under investigation for possible collusion. All three declined to do what the president asked. Comey and Rogers also contradicted Trump's assertion in March 2017 that the White House had tapped phones in Trump Tower during the campaign (Thrush and Haberman 2017).

In July 2018, President Trump met with Vladimir Putin in Finland and asked him whether Russia had attempted to interfere with the 2016 election. Putin denied the allegation and in a press conference after their private meeting, Trump told the press: "I will tell you that President Putin was extremely strong and powerful in his denial today.... My people came to me, Dan Coats came to me and some others saying they think it's Russia. I have President Putin, he just said it's not Russia. I will say this, I don't see any reason why it would be" (Draper 2020). Trump's statement in such strong terms constituted a public repudiation of the consensus among the top U.S. intelligence services. Presidents do not always get along with the intelligence community, but this broad public rebuke was extraordinary.

In January 2019 in congressional testimony, Director of National Intelligence Dan Coats and CIA Director Gina Haspel, both Trump appointees, testified before Congress in their annual Worldwide Threat Assessment. In their sworn testimony, they noted that North Korea was not likely to give up its nuclear arsenal and that Iran was not violating the nuclear agreement it made in 2016. Trump was upset with their testimony and tweeted: "Perhaps Intelligence should go back to school.... The intelligence people seem to be extremely passive and naïve when it comes to the dangers of Iran. They are wrong!" (Landler 2019). This was another extraordinary public castigation of the intelligence community by Trump. As a result, officials in the Office of the Director of National Intelligence (ODNI) told members of Congress that they would rather not present the traditional annual briefing to Congress in public testimony for fear that it would provoke the president (Bertrand and Lippman 2020). Asserting that "the intelligence agencies have run amok," Trump fired Coats by tweet and replaced him with his political ambassador to Germany as acting director, and then appointed his political ally, Texas Rep. John Ratcliffe, who had very little background in intelligence (Draper 2020).

Trump later fired acting DNI Joseph Maguire for allowing a staffer to testify before Congress about planned Russian interference in the 2020 election (Walcott 2020). Trump remained irritated by Secretary of Defense Esper's apology for accompanying him at the Lafayette Square incident and for his work on renaming military bases named after Confederate generals, and immediately after the 2020 election, Trump fired him by tweet. On November 10, 2020, CIA Director Gina Haspel was upset at the way that Trump fired Esper. She remarked to General Mark Milley, "We are on the way to a right-wing coup" and that Trump was "acting out like a six-year-old with a tantrum" (Woodward and Costa 2021, 152). When directed by Mark Meadows to fire her deputy in favor of a Trump replacement, she said that she would



resign and he backed down (Woodward and Costa 2021, 156). On November 12, 2020, Trump was considering a U.S. attack on Iran, though General Milley and Secretary of State Mike Pompeo talked him out of it. Haspel remarked to Milley, “We are going to lash out for his ego?” (Woodward and Costa 2021, 160).

### **Vice President Pence**

In the contemporary presidency, vice presidents are chosen by presidential candidates (though they are technically nominated by votes at national party conventions) and presumably vice presidents do what presidents want them to. Thus, it was highly unusual for Mike Pence to refuse to bow to Trump's intense pressure on him to reject electoral votes from states that Trump lost when they were counted on January 6, 2021 (Pfiffner 2022).

When Trump was working to overturn the 2020 election, he insisted that the vice president had the authority to reject electoral votes forwarded to Congress from states that had voted for Biden. Trump was putting great pressure on Pence to declare Trump the winner or at least say that the electoral votes were in doubt. On January 5, Trump told Pence: “This is all I want you to do, Mike. Let the House decide the election. I don't want to be your friend anymore if you don't do this” (Woodward and Costa 2021, 228–29). In a call on January 6, Trump told Pence, “You can either go down in history as a patriot, or you can go down in history as a pussy” (Baker et al. 2021).

After consulting with constitutional experts and lawyers, Pence decided that he did not have legal authority to reverse the election and would not break the law for President Trump. Even Dan Quayle, who had been Bush 41's vice president, and who, as president of the Senate on January 6, 1993, had declared that Bill Clinton had been elected president, told Pence, “Mike, you have no flexibility on this. None. Zero. Forget it. Put it away” (Woodward and Costa, 199, 228–30). On January 6, Pence released a letter explaining that “no Vice President in American history has ever asserted” authority to ignore or throw out slates of electoral votes (Woodward and Costa 2021, 240). This led directly to Trump's denunciation of Pence before the mob on January 6 and the chants of “hang Mike Pence” as the Trump-incited mob marched toward the Capitol (Helderman et al. 2020).

On January 29, 2022, in a talk at a political rally, Trump said, “Mike Pence did have the right to change the outcome.... Unfortunately, he didn't exercise that power, he could have overturned the election!” (Goodman and Cochrane 2022). After Trump's declaration, Pence responded, “President Trump is wrong.... I had no right to overturn the election” (Lerer 2022).

### **Resignations, Insults, and Turnover**

A time-honored way to object to an administration's policies is to resign in protest. At one level, this approach demonstrates that the person is willing to give up

high office and income in order to register a strong dissent about policy. But at another level, resignation excludes one from any further ability to affect policy (Nou 2019, 378; Weisband and Frank 1975). Although a number of career civil servants resigned during the Trump administration (Corrigan 2018; Park 2019; Rogin 2017), the number of resignations of high-level officials in the Trump administration was extraordinarily high. Some officials stayed with the Trump administration because they considered themselves “guardians,” or in John Bolton's term “axis of adults,” to ensure that Trump did not make dangerous decisions (Anonymous 2017; Bolton 2020, 136, 142; Isgur 2020).

In his memoir, Mark Esper explained why he did not resign before he was fired. He said, “I felt I was still able to manage the president and his worst instincts. I don't know who is going to come in behind me, and I didn't have confidence that they would do the things that I was doing—that they would push back. My concern was that they would actually implement some of these outlandish ideas...If you're serious about your oath and putting the country first, then the higher calling was to kind of hang in there and try to keep things steady as she goes” (Lamothe 2022).

Many of the resignations came under pressure; that is, the officials knew that Trump did not want them in office and chose to resign themselves; whether they resigned or were fired was often a matter of interpretation, depending on timing.

The most visible resignation in protest came when Defense Secretary James Mattis decided to leave the administration, following the president's decision to withdraw U.S. troops fighting the Islamic State from Syria and pull back from Afghanistan. In his resignation letter, Mattis made it clear that he disagreed with several aspects of President Trump's approach to national security, for instance, the importance of NATO to Western security and Trump's conciliatory approach to Russia. Mattis also disapproved of Trump's dismissive attitude toward traditional U.S. allies: “we cannot protect our interests or serve that role effectively without maintaining strong alliances and showing respect to those allies” (Mattis 2018). Mattis committed himself to stay in office until his successor was confirmed, but when Trump saw the public reaction to the Mattis letter he removed him from office at the end of 2018. Mattis summarized his reservations about Trump: “When I was basically directed to do something that I thought went beyond stupid to felony stupid, strategically jeopardizing our place in the world and everything else, that's when I quit” (Woodward 2020, 143).

When other presidents wanted to fire high-level officials, they most often allowed them to resign with some face-saving excuse, such as spending more time with their families. This was seldom the case when Trump fired officials, and he often insultingly fired them by tweet (e.g., Priebus, Esper, Nielsen, Tillerson, and Coats, among others).

In addition to firing his appointed officials, Trump often went out of his way to humiliate them publicly after they had left his administration. For instance, Trump called James Mattis “the world's most overrated general” (Perano 2019). He said that Rex Tillerson was as “dumb as a rock” and “lazy as hell” (Raymond and Stieb 2020). According to Trump, John Kelly was in “way over his head” and “went out with a whimper” (Raymond and Stieb 2020). He said that Jeff Sessions, one of his earliest supporters, was a “total joke,” “mentally retarded,” and “a dumb southerner” (Raymond

and Stieb 2020). William Barr “was slow, lethargic,” “a big disappointment,” and “groveling,” as well as “lazy and cowardly” (Trump 2022). John Bolton was “one of the dumbest people in Washington” (Budryk 2020). Mark Esper was a “stiff” and a “lightweight” (Lamothe 2022).

Given the way Trump treated some of his highest officials, it is no wonder that his administration set records in turnover in both the cabinet and Executive Office of the President (EOP). Kathryn Dunn Tenpas (2021) has calculated the turnover of the highest 65 positions in the EOP (the “A Team”) as 92%. In the four years of his term, Trump had four chiefs of staff, four national security advisors, five directors of national intelligence, four press secretaries, and six communications advisors (including acting officials).

Likewise, the turnover in Trump's cabinet (14) exceeded by far the first-term turnover of all presidents since Reagan, with four secretaries of defense, four attorneys general, and four secretaries of homeland security (including acting secretaries), compared with Obama, 2; George W. Bush, 2; Clinton, 4; George H. W. Bush, 8; and Reagan, 6 (Tenpas 2021). Many of the cabinet secretaries resigned under pressure, and several resigned because of the January 6 insurrection at the Capitol: Elaine Chou (Commerce), Betsy DeVos (Education), Alex Azar (HHS), and Chad Wolf (DHS).

## Conclusion

Despite President Trump's complaints about the deep state, it was actually his own presidential appointees in the shallow state who delayed or thwarted his expressed wishes. Perhaps most surprising was the willingness of top-level White House aides—director of the National Economic Council, staff secretary, and his counsels—to actively undermine his wishes. The most important members of his cabinet—secretaries of state, defense, homeland security, and justice—were willing to oppose Trump to the extent that they were fired.

The professional military officer corps was sufficiently alarmed at some of Trump's policy directions that they were willing to speak out publicly in criticism of the commander in chief. Intelligence leaders—directors of the CIA and national intelligence—were unwilling to change their judgments in order to please the president.

Where does this leave us with respect to the duties and obligations of presidential appointees? Here are three possible options reflected in the illustrations discussed above.

1. In the case of insufficient vetting of policy proposals, it may be legitimate to delay action until the president can be fully informed of the range of objections to a policy before making a final decision. This is the job that a competent chief of staff should be doing in every administration. The problem with Trump was that he was inclined to make a snap decision before a full vetting, and thus it may have been legitimate for his appointees to slow-walk a directive until it could be fully staffed out. Regardless of the wisdom of the president's final decision, a deliberative policy process increases the probability that a president will act rationally.

2. If a presidential appointee disagrees strongly with a fully staffed-out final decision by the president (presuming it is legal and ethical), the appropriate response may be to resign rather than act to sabotage the directive.
3. In unusual circumstances (e.g., an order to commit war crimes or an unjustified nuclear launch order), there may be an “in-emergency-break-glass” moment in which an appointee actively undermines a presidential directive (Hayden 2018). But this would be a matter of individual conscience in defense of a higher value than the duty to carry out a presidential directive. However, given the seriousness of undermining a president's directive, once the crisis has passed, an appointee who takes such drastic action should probably resign and publicly explain what higher values justified the extreme actions taken.

Trump was not the only president to have conflicts in his White House staff or who requested the resignations of cabinet secretaries, but his leadership style led to record turnover in his White House and cabinet appointees. Compared with other recent presidents, he was far more brutal by tweeting his “terminations” publicly, often without forewarning to those he was firing, and by insulting them after they had left his administration. Vice President Pence was one of the most low-visibility and acquiescing vice presidents in modern times, but even he was unwilling to do Trump's bidding and break the law by attempting to disqualify electoral votes for Joe Biden that were ratified in state capitols.

President Biden in many ways took the opposite approach to presidential leadership than President Trump. Future presidents have two models of leadership to follow: the model followed by all other modern presidents or the approach taken by President Trump.

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